

(Youth Treatment Services)
(17-003-YSD)

THIS CONTRACT is entered into by and between the State of Montana, **Montana Department of Corrections** (Department), whose address and phone number are **5 S. Last Chance Gulch, Helena, MT 59601, (406) 444-3930** and **5-C Juvenile Detention Center** (Contractor), whose address and phone number are **423 North 2300 East, St. Anthony, ID 83445** and **(208)-624-1345**.

1. EFFECTIVE DATE, DURATION, AND RENEWAL.

1.1. Contract Term. The contract's initial term is upon contract execution through **June 30, 2018**, unless terminated earlier as provided in this contract. In no event is this contract binding on the Department unless the Department's authorized representative has signed it. The legal counsel signature approving legal content of the contract does not constitute an authorized signature.

1.2. Contract Renewal. The Department may renew this contract under its then-existing terms and conditions (subject to potential cost adjustments described below in section 2) in one-year intervals, or any interval that is advantageous to the Department. This contract, including any renewals, may not exceed a total of seven (7) years.

1.3. Emergency Termination

If, for any reason, The Contractor places the juvenile's safety and well-being in jeopardy or at risk, the Department may immediately cancel this contract without notice, and proceed to remove all juveniles as deemed necessary and appropriate by the Department.

2. COST ADJUSTMENTS.

2.1. Cost Increase by Mutual Agreement. After the contract's initial term and if the Department agrees to a renewal, the parties may agree upon a cost increase. The Department is not obligated to agree upon a renewal or a cost increase. Any cost increases must be based on demonstrated industry-wide or regional increases in Contractor's costs. Publications such as the Federal Bureau of Labor Statistics and the Consumer Price Index (CPI) for all Urban Consumers may be used to determine the increased value.

3. PURPOSE & DUTIES.

3.1. Treatment Based Services. Contractor shall provide **treatment based services** in a secure care setting to youth offenders adjudicated to the Department.

3.2. Special Consideration.

- a. The Contractor will contact Department with changes in juvenile population or culture, in addition to the reporting requirements listed.
- b. The Contractor will allow unrestricted, immediate visitation at all times to Youth Services Division and other Department staff.
- c. Department reserves the right to remove any juvenile placed under this contract from the facility, at any time and without prior notice to the Contractor, if deemed necessary by the Department staff.

- d. The Contractor will advise Department if the current program does not appear to meet the needs of the juvenile named in this contract.
- e. Pregnant juveniles will be reviewed on a case-by-case basis up to the start of the third trimester.
- f. The Contractor will provide adequate supervision and appropriate security measures as needed.
- g. The Contractor will collaborate with Department regarding treatment decisions and intervention planning.

3.3. Education Requirements. The Contractor will provide Idaho endorsed teachers and all special education needs through their contract with the Freemont County School District 215, 945 West 1st N., St. Anthony, ID 83445, (208)-624-7542. Endorsed teachers and para-professional will oversee education under the supervision of the head teacher. All educational course work will be accredited through the school district and will transfer to Montana schools. The Contractor will also provide GED study and testing as appropriate, and will facilitate ACT testing as appropriate.

3.4. Treatment Requirements.

- a. The Contractor will provide a cognitive/behavioral based individualized treatment program including substance abuse treatment and mental health therapy by licensed therapists within the timeframe of the Montana Length of Stay guidelines for each MT youth.
- b. The Contractor will include the MT Designated Point of Contact (DPC) and each youth's MT Juvenile Parole Officer via phone at monthly progress meetings. Progress meeting reports will be submitted monthly to the MT DOC, along with copies of all assessments completed.
- c. The Contractor will facilitate scheduled phone calls with the MT Mentoring Program once the schedule is set up by Mountain Peaks, Inc., the MT contracted provider of mentoring services.
- d. The Contractor will submit Final Treatment Report within two week of a youth's release from the facility to the MT DPC.
- e. The Contractor will schedule and facilitate monthly Skype calls (outside of the monthly treatment review meetings) between each youth and her parole officer to encourage relationship building.
- f. The Contractor shall provide **short term youth detention services** to youth in legal custody of the Department upon presentation of a "Certificate to Detain" by an agent of the Department according to 52-5-128 MCA.

3.5. Required Medical Services (Treatment and Short Term Detention).

- a. Confidentiality of personal health information of each juvenile shall be maintained in accordance with the Privacy Regulations promulgated under HIPAA.
- b. Each juvenile shall be provided with emergency medical, dental, optical, mental health or any other related health services while in the provider's care. Each provider shall have access, on a twenty-four hour basis, to a licensed general hospital, clinic or physician, psychiatrist, dentist and pharmacy to

provide juveniles with professional and qualified physical or mental health services, including prescribed medications. Health, mental health, and suicide risk screening must be provided within two (2) hours of each juvenile's admission into treatment.

c. In an emergency, the Contractor may make appropriate arrangements for emergency medical treatment which exceeds normal maintenance for youth from the Department in the same manner as it would make such an arrangement for its own youth, without first obtaining the approval of the Department. The Contractor will notify the Department as soon thereafter as is practicable.

d. Prior approval must be secured and documented from the Clinical Services Division via email to cornmedical@mt.gov for all non-emergent off-site medical services except annual health services.

e. Non-emergent on-site medical services must be provided by licensed medical professionals on an as needed basis.

f. The Contractor shall immediately report critical health incidents to the Youth Services Division Administrator by telephone. A written incident report shall also be transmitted within twenty-four (24) hours to cornmedical@mt.gov. A critical health incident includes but is not limited to all health and mental health emergencies and every instance of emergency room access.

g. Any time a juvenile receives medical treatment the Contractor shall retain the original medical record regarding treatment and send a copy to the Department's Clinical Services Division Administrator immediately to ensure that accurate and current health records are maintained for each juvenile.

h. Contractor must have a written plan for responding to juveniles who present a risk of suicide. The procedure shall, at a minimum, include a process for determination or assessment of suicidal behavior and risk, a procedure for contacting local mental health providers and the department, and a plan of direct supervision of a juvenile until the suicide crisis has ended. A suicide risk screening must be completed on every juvenile within two (2) hours of admission into treatment.

3.6. Grievance Procedure (Treatment and Short Term Detention). The Contractor will establish a system through which recipients may present grievances about the operation of the program. The Contractor will advise recipients of this right and will also advise applicants and recipients of their right to appeal denial or exclusion from the program or failure to recognize a youth's choice of service. If the grievance cannot be resolved at the facility level, it may be appealed to the Department's Youth Services Division Administrator for consideration.

4. WARRANTIES.

4.1. Warranty of Services. Contractor warrants that the services provided conform to the contract requirements, including all descriptions, specifications and attachments made a part of this contract. The Department's acceptance of services provided by Contractor shall not relieve Contractor from its obligations under this warranty. In addition to its other remedies under this contract, at law, or in equity, the Department may, at Contractor's expense, require prompt correction of any services failing to meet Contractor's warranty herein. Services corrected by Contractor shall be subject to all the provisions of this contract in the manner and to the same extent as services originally furnished.

5. **CONSIDERATION/PAYMENT.**

5.1. Establishment of Daily Per Diem Rate. Contractor agrees that the "costs of reasonable confinement" established herein are based on actual, reasonable costs and are **exclusive of capital construction costs.**

5.2. Payment of Daily Per Diem Rate for Treatment. DEPARTMENT agrees to pay Contractor a daily per diem rate of **\$355.00** per day for **treatment services** for each adolescent female placed at the facility in the female treatment unit for long-term custody and treatment who is the financial responsibility of the DEPARTMENT.

5.3. Payment of Daily Per Diem Rate for Detention. Department agrees to pay Contractor a daily per diem rate of **\$180.00** per day for **short-term detention services** for each youth confined in the detention wing of the facility who is the financial responsibility of the Department. Department agrees to pay Contractor for staff time incurred to transport a Department youth to or from the juvenile detention facility when requested by the Department. Contractor will not charge the Department for transports if they are already in route. Department also agrees to pay Contractor for mileage at the current state mileage rate in effect at the time of transport.

5.4. Billing. On a monthly basis, Contractor shall furnish the Department with an itemized statement specifying the name, date of birth, and dates of confinement of each juvenile whose confinement expenses are the responsibility of the Department. The Contractor agrees to furnish a separate itemized statement for prescription expenses that are the responsibility of the Department, as provided by this Agreement. The Contractor will bill outside medical charges on the third party claim forms referenced in section 5.2.B-4

5.5. Reimbursement.

- a. Confinement: Department will pay Contractor the daily per diem rate set forth in this Agreement for each day of confinement. **Reimbursement will include the first day of confinement (as described herein), but will not include the last day of confinement when the youth is released/transferred from the custody of the youth facility.**
- b. Medication, Medial Services, and Hospitalization: Under the terms of this Agreement, Department will pay medical costs of youth confined in the youth facility who are the responsibility of the Department.
- c. The Contractor agrees to provide youth with emergency medical treatment in accordance with acceptable standards of practice. The determination to provide a youth with medication, medical services, or hospitalization shall be at the discretion of Contractor's qualified healthcare professionals.
- d. Whenever a youth requires medication, outside medical services, or hospitalization, medical expenses shall be the responsibility of the Department. Prior to providing non-emergency medical services for Montana youth, the Contractor shall obtain prior authorization from the Department Clinical Services Division. Costs for non-emergency services that have not had prior authorization will be the responsibility of the Contractor.
- e. Outside medical provider claims will be submitted to the Clinical Services Division per their instructions at cormedical@mt.gov.
- f. Contractor will be compensated by Department according to current fee schedules and limits as contained in the Montana Medicaid Manual. Only claims submitted by Contractor within one (1) year of date of service shall be processed.

- g. If either outside medical or Contractor medical reimbursements at the MT Medicaid rates are lower than ID Medicaid rates, an invoice showing the reimbursement rate received and difference required to match the ID Medicaid rate will be submitted directly to the Clinical Services Division for payment of the difference.
- h. Emergency care may be provided without prior authorization. However, Clinical Services Division must be notified by the next business day to provide information regarding the nature of the illness; the type of treatment provided; and the estimated length of treatment. Notifications should be submitted to cormedical@mt.gov.
- i. Contractor agrees to use the department's contract with Diamond Pharmacy for pharmaceutical purchases whenever possible.

5.6. Payment Terms. Unless otherwise noted in the solicitation document, the Department has 30 days to pay invoices, as allowed by 17-8-242, MCA. Contractor shall provide banking information at the time of contract execution in order to facilitate the Department's electronic funds transfer payments.

5.7. Reference to Contract. The contract number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract. If the number is not provided, the Department is not obligated to pay the invoice.

6. ACCESS AND RETENTION OF RECORDS.

6.1. Access to Records. Contractor shall provide the Department, Legislative Auditor, or their authorized agent's access to any records necessary to determine contract compliance. The Department may terminate this contract under section 17 without incurring liability, for the Contractor's refusal to allow access as required by this section. (18-1-118, MCA.)

6.2. Retention Period. Contractor shall create and retain all records supporting the services rendered for a period of eight years after either the completion date of this contract or termination of the contract.

7. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING. Contractor may not assign, transfer, or subcontract any portion of this contract without the Department's prior written consent. (18-4-141, MCA) Contractor is responsible to the Department for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and the Department under this contract.

8. HOLD HARMLESS/INDEMNIFICATION. Contractor agrees to protect, defend, indemnify, and hold harmless the Department, its elected and appointed officials, agents and employees from and against all legal, equitable or administrative claims, causes of action, damages, losses and expenses, of any kind or character, including but not limited to attorneys' fees and the costs of defense, arising in favor of Contractor's employees or third parties on account of bodily injury, sickness, disease, death, personal injury, violation of an offender's constitutional or statutory rights, or to injury to or destruction of tangible property except for such claims, causes of action, damages, losses or expenses which are solely due to the fault or negligence of the party seeking indemnity.

9. **REQUIRED INSURANCE.**

9.1. Certificate of Insurance/Endorsements. Contractor is self-insured and must immediately notify Department of any material change in insurance coverage, such as changes in limits, coverages, policy status, etc. Department reserves the right to require complete copies of insurance policies at all times.

10. **LICENSURE.** Contractor agrees to provide copies of current licenses and certifications that register Contractor and any associates performing under this Contract.

11. **COMPLIANCE WITH LAWS.** Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. CONTRACTOR will comply with the Prison Rape Elimination Act (PREA) 42 U.S.C. § 15601 *et seq.*, all applicable PREA regulations, 28 CFR Part 115, and all applicable PREA standards. CONTRACTOR shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct

12. **DISABILITY ACCOMMODATIONS.** The Department does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this department. Interested parties should provide as much advance notice as possible.

13. **INTELLECTUAL PROPERTY/OWNERSHIP**

13.1. Ownership of Work Product. Contractor shall execute any documents or take any other actions as may reasonably be necessary, or as the Department may reasonably request, to perfect the Department's ownership of any Work Product.

13.2. Copy of Work Product. Contractor shall, at no cost to the Department, deliver to the Department, upon the Department's request during the term of this contract or at its expiration or termination, a current copy of all Work Product in the form and on the media in use as of the date of the Department's request, or such expiration or termination.

13.3. Ownership of Contractor Pre-Existing Materials. Contractor retains ownership of all literary or other works of authorship (such as software programs and code, documentation, reports, and similar works), information, data, intellectual property, techniques, subroutines, algorithms, methods or related rights and derivatives that Contractor owns at the time this contract is executed or otherwise developed or acquired independent of this contract and employed by Contractor in connection with the services provided to the Department (the "Contractor Pre-existing Materials"). Contractor Pre-existing Materials are not Work Product. Contractor shall provide full disclosure of any Contractor Pre-Existing Materials to the Department before its use and to prove its ownership. If, however, Contractor fails to disclose to the Department such Contractor Pre-Existing Materials, Contractor shall grant the Department a nonexclusive, worldwide, paid-up license to use any Contractor Pre-Existing Materials embedded in the Work Product to the extent such Contractor Pre-Existing Materials are necessary for the Department to receive the intended benefit under this contract. Such license

shall remain in effect for so long as such Pre-Existing Materials remain embedded in the Work Product. Except as otherwise provided for in Section 16.1 or as may be expressly agreed in any statement of work, Contractor shall retain title to and ownership of any hardware it provides under this contract.

14. CONTRACT TERMINATION.

14.1. Termination for Cause with Notice to Cure Requirement. The Department may terminate this contract in whole or in part for Contractor's failure to materially perform any of the services, duties, terms, or conditions contained in this contract after giving Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

14.2. Termination for Cause with Notice to Cure Requirement. Contractor may terminate this contract for the Department's failure to perform any of its duties under this contract after giving the Department written notice of the failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

14.3. Reduction of Funding. The Department must by law terminate this contract if funds are not appropriated or otherwise made available to support the Department's continuation of performance of this contract in a subsequent fiscal period. (18-4-313(4), MCA.) If state or federal government funds are not appropriated or otherwise made available through the Department budgeting process to support continued performance of this contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the Department shall terminate this contract as required by law. The Department shall provide Contractor the date the Department's termination shall take effect. The Department shall not be liable to Contractor for any payment that would have been payable had the contract not been terminated under this provision. As stated above, the Department shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date the Department's termination takes effect. This is Contractor's sole remedy. The Department shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

15. EVENT OF BREACH – REMEDIES.

15.1. Event of Breach by Department. The Contractor's failure to perform any material terms or conditions of this contract constitutes an event of breach.

15.2. Event of Breach by Department. The Department's failure to perform any material terms or conditions of this contract constitutes an event of breach.

15.3. Actions in Event of Breach.

- a. Upon Contractor's material breach, the Department may:
 - i. terminate this contract under Section 17 .1 and pursue any of its remedies under this contract, at law, or in equity; or,
 - ii. treat this contract as materially breached and pursue any of its remedies under this contract, at law, or in equity.

- b. Upon the Department's material breach, Contractor may:
- i. terminate this contract under Section 17.2 and pursue any of its remedies under this contract, at law, or in equity; or,
 - ii. treat this contract as materially breached and, except as the remedy is limited in this contract, pursue any of its remedies under this contract, at law, or in equity.

16. WAIVER OF BREACH. Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

17. LIAISONS AND SERVICE OF NOTICES.

17.1. Contract Liaisons. All project management and coordination on the Department's behalf must be through a single point of contact designated as the Department's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed under this contract must be coordinated between the Department's liaison and Contractor's liaison.

Cindy McKenzie is the Department's liaison.
5 S. Last Chance
Helena, MT 59601
Telephone: (406)-444-0851
E-mail: cmckenzie@mt.gov

Nicki Chavez is Contractor's liaison.
423 North 2300 East
St. Anthony, ID 83445
Telephone: (208)-624-1345
Fax: (208)-624-1351
E-mail: nchavez@co.fremont.id.us

17.2. Notifications. The Department's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, mail, or facsimile. If notice is provided by personal service or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective within three business days of mailing. A signed and dated acknowledgement of the notice is required of both parties.

18. MEETINGS.

18.1. Technical or Contractual Problems. Contractor shall meet with the Department's personnel, or designated representatives, to resolve technical or contractual problems occurring during the contract term or to discuss the progress made by Contractor and the Department in the performance of their respective obligations, at no additional cost to the Department. The Department may request the meetings as problems arise and will be coordinated by the Department. The Department shall provide Contractor a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the contract.

18.2. Failure to Notify. If Contractor fails to specify in writing any problem or circumstance that materially affects the costs of its delivery of services or products, including a material breach by the Department, about which Contractor knew or reasonably should have known with respect to the period during the term covered by Contractor's status report, Contractor shall not be entitled to rely upon such problem or circumstance as a purported justification for an increase in the price for the agreed upon scope.

18.3. Department's Failure or Delay. For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of the Department's failure or delay in discharging any Department obligation, the Department shall review same and determine if such problem or circumstance was in fact the result of such failure or delay. If the Department agrees as to the cause of such problem or circumstance, then the parties shall extend any deadlines or due dates affected thereby, and provide for any additional charges by Contractor. This is Contractor's sole remedy. If the Department does not agree as to the cause of such problem or circumstance, the parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both parties.

19. TRANSITION ASSISTANCE. If this contract is not renewed at the end of this term, if the contract is otherwise terminated before project completion, or if particular work on a project is terminated for any reason, Contractor shall provide transition assistance for a reasonable, mutually agreed period of time after the expiration or termination of this contract or particular work under this contract. The purpose of this assistance is to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the Department or its designees. The parties agree that such transition assistance is governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The Department shall pay Contractor for any resources utilized in performing such transition assistance at the most current contract rates. If the Department terminates a project or this contract for cause, then the Department may offset the cost of paying Contractor for the additional resources Contractor utilized in providing transition assistance with any damages the Department may have sustained as a result of Contractor's breach.

20. CHOICE OF LAW AND VENUE. Montana law governs this contract. The parties agree that any litigation concerning this bid, proposal, or this contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

21. TAX EXEMPTION. The Department of Montana is exempt from Federal Excise Taxes (#81-0302402).

22. SEVERABILITY CLAUSE. A declaration by any court or any other binding legal source that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually and materially dependent.

23. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT.

23.1. Contract. This contract consists of 10 numbered pages and any Attachments as required. In the case of dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

23.2. Entire Agreement. These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment or modification must be in a written agreement signed by the parties.

24. WAIVER. The Department's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

25. EXECUTION. The parties through their authorized agents have executed this contract on the dates set out below.

DEPARTMENT OF MONTANA
Montana Department of Corrections
5 S. Last Chance Gulch
Helena, MT 59601

5-C Juvenile Detention Center
423 North 2300 East
St. Anthony, ID 83445



Cindy McKenzie, Administrator
Youth Services Division



Leroy Miller, Fremont County Commissioner
5-C Board Chairman

DATE: 8-10-17

DATE: 7/31/17

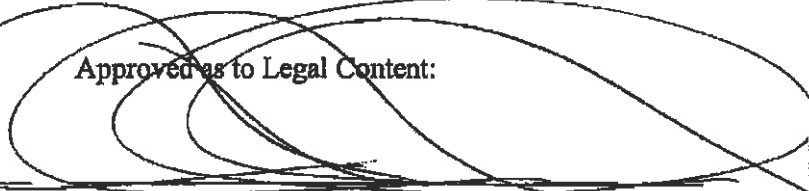
Approved as to Legal Content:



Legal Counsel

(Date)

Approved as to Legal Content:



Legal Counsel

(Date)