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CONTRACT AMENDMENT NO. 5
NEXUS TREATMENT CENTER
COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC.
CONTRACT NO. 07-015-ACCD

This CONTRACT AMENDMENT No. **5** amends the above-referenced contract between the **State of Montana, Department of Corrections** (State), whose address and phone number are P.O. Box 201301, 5 South Last Chance Gulch, Helena, MT 59620-1301, 406-444-3930 and **Community, Counseling, and Correctional Services, Inc.**, (Contractor), whose address and phone number are 471 East Mercury, Billings, MT 59701, (406) 782-0417. This Contract is amended for the following purpose(s):

1) In accordance with Section 1, of the above-referenced contract, entitled Standard Contract Terms, the parties mutually agree to the following changes in subsections 1.C., 1.D., 1.F., 1.G., 1.H., 1.I., 1.J., 1.L., 1.W., 1.X. and to the addition of new subsection 1.AB. In the event any subsections are removed, subsequent subsections will not be renumbered. **(New language underlined, deleted language interlined.)**

There are no changes to subsections 1.A and 1.B.

C. Liaisons and Notice

1. The Contract Persons for ~~DEPARTMENT~~ State are:

Operational Issues: ~~Adult Community Corrections Division Administrator~~ Programs & Facilities Bureau Chief or designee
Contract Issues: Treatment Contract Manager
Notice/Litigation: Chief General Counsel
Emergency Contact: Treatment Contract Manager

There are no changes to subsection 1.C.2.

D. Access to Records – Offender Records/Files/OMIS access

Contractor must follow ~~ACCD 1.5.500 Case Records Management and ACCD 1.5.600 Offender Records Access and Release~~ PFB 6.2.408 PFB Offender Case Records Management. Contractor will follow ~~ACCD 1.7.100 OMIS Access for Contract Facilities~~ PFB 6.1.205 OMIS-Provider Access and Use.

There are no other changes to subsection 1.D.

There are no changes to subsection 1.E.

F. Emergency Preparedness

1. Contractor must follow DOC 3.2.1 Emergency Management, DOC 3.2.1A Emergency Operations Plan, and ~~ACCD 3.2.100 ACCD Facility Escapes/Walk-Aways~~ PFB 6.2.422 Escapes. Contractor shall maintain written procedures to provide for the continued operation of the program in the event of an employee work stoppage, emergency, or disaster. The procedures shall include, but not be limited to: assignment of tasks and responsibilities, instructions for the use of alarm systems, notification of authorities, use of special emergency equipment, and specifications of escape routes and

procedures. The emergency evacuation routes shall be posted at highly visible locations and explained to each new offender at orientation. The Facility shall conduct and maintain documentation of quarterly drills and evaluate the effectiveness of disaster procedures.

There are no changes to subsections 1.F.2 through 1.F.4.

5. Use of force by Contractor employees shall be consistent with ~~MDOC Policies, 3.1.8 Use of Force and Restraints and~~ ACCD 3.1.800 Use of Force ~~and MDOC 3.1.17 Searches and Contraband Control and ACCD 3.1.17 Searches and Contraband Control~~ and PFB 6.2.425 Searches and Contraband.

There are no other changes to subsection 1.F.5.

There are no changes to subsections 1.F.6.

G. Compensation/Billing

There are no changes to the opening paragraph.

1. Compensation

a. Total contract amount

FY 2022 (July 1, 2021 - June 30, 2022) and **FY 2023 (July 1, 2022 - June 30, 2023)** Contract Maximum reimbursement shall not exceed **$4,024,176** (four million twenty-four thousand one hundred seventy-six and 00/100) annually for FY 2022 and ~~$4,064,392 (four million sixty-four thousand three hundred ninety-two and 00/100) annually for FY 2023~~ **$4,113,455** (four million one-hundred thirteen thousand four hundred fifty-five and 00/100) annually for FY 2023. The contract maximum amount includes all compensation noted in this contract except transitional assistance funding.

For the contract period of **FY 2023 (July 1, 2022 – June 30, 2023)** State will pay Contractor a one-time inflation payment not to exceed **$16,174.20** (sixteen thousand one hundred seventy-four and 20/100). This payment will not be counted towards the contract maximum amount.

There are no other changes to subsection 1.G.1.a.

b. Offender per diem rates

FY 2022 (July 1, 2021 - June 30, 2022) and **FY 2023 (July 1, 2022 - June 30, 2023)** Nexus/Lewistown: For the contract period FY 2022, State will pay Contractor a per diem rate of $133.09 (one hundred thirty-three and 09/100 dollars) per offender, per day. For the contract period FY 2023, State will pay Contractor a per diem rate of $134.42 (one hundred thirty-four and 42/100 dollars) per offender, per day. For FY 2022, ~~P~~program capacity at the Nexus/Lewistown facility is eighty-two (82) Methamphetamine and related-drug treatment beds and two (2) inmate workers. For FY 2023, program capacity at the Nexus/Lewistown facility is eighty-three (83) Methamphetamine and related-drug treatment beds and two (2) inmate workers. Maximum compensation is calculated at an Average Daily Population of eighty-two (82) beds for ~~the contract year~~ FY 2022 and eighty-three (83) beds for FY 2023. State will pay Contractor a per diem rate of $55.88 (fifty-five and 88/100 dollars) not to

exceed $40,792 for FY 2022 and $56.44 (fifty-six and 44/100 dollars) not to exceed $41,201 for FY 2023 for two (2) inmate workers.

There are no other changes to subsection 1.G.1.b.

c. Other per diem (~~TL, ESP~~, Sanction Beds, Jail Stays)
~~TL and ESP not applicable.~~

There are no other changes to subsection 1.G.1.c.

~~d. Special funds (special needs, stipends, sex offenders)~~
~~Not applicable~~.

~~e. Position Compensation (nurse, mental health)~~
~~Not applicable.~~

2. Billing/Payment

There are no changes to subsections 1.G.2.a., 1.G.2.b., and 1.G.2.c.

d. Contractor must follow ~~ACCD 1.1.700 Compliance Monitoring~~ PFB 1.1.700 Compliance Monitoring. ~~DEPARTMENT~~ State may withhold payments to Contractor in an amount equal to the additional costs to the ~~DEPARTMENT~~ State or $1,000.00 per month, whichever is greater, for failure to perform in accordance with the terms of this Agreement. However, prior to withholding payment, ~~DEPARTMENT~~ State shall notify Contractor and the MFFA (hereinafter defined, and if facility is financed by MFFA), in writing, of its failure to perform. The notice shall specify acts or omissions constituting the default. If CONTRACTOR fails to remedy the default or submit an action plan deemed acceptable by ~~DEPARTMENT~~ State within 60 days of receiving notice, ~~DEPARTMENT~~ State may withhold payments ~~DEPARTMENT~~ State may allow Contractor additional time, as appropriate, provided Contractor demonstrates a good faith effort to achieve compliance.

There are no changes to subsections 1.G.2.e. and 1.G.3.

H. ~~Agency Assistance~~
~~Not Applicable~~

~~I. Intellectual Property~~
~~All patent and other legal rights in or to inventions created in whole or in part under this contract must be available to DEPARTMENT for royalty-free and nonexclusive licensing. Both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use and authorize others to use, copyrightable property created under this contract.~~

J. Compliance with Laws

1. State, federal, and local laws

~~CONTRACTOR must, in performance of work under the Contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008, Section 504 of the Rehabilitation Act of 1973, and Public Law 108-79 Prison Rape Elimination Act and the standards mandated therein. Any subletting or subcontracting by CONTRACTOR subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, CONTRACTOR agrees that the hiring of persons to perform the Contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by persons performing the Contract.~~

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 Montana Human Rights Act, 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 42 U.S.C. § 18001 et seq. Contractor will comply with the Prison Rape Elimination Act 34 U.S.C. § 30301 et seq., the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.1.17, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident reporting. State has a zero-tolerance policy as to incidents of sexual assault/rape or sexual misconduct in its correctional facilities or premises. Contractor is referred to § 45-5-501 MCA. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with § 49-3-207, MCA, and State of Montana Executive Order No. 04-2016, Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

Affordable Care Act. The Affordable Care Act requires a Contractor, if Contractor is an applicable large employer under the ACA, to provide healthcare coverage for its employees who provide services for the State and work for 30 or more hours per week. This coverage must also cover the eligible employee's dependents under the age of 26. The coverage must (a) meet the minimum essential coverage, minimum value, and affordability requirements of the employer responsibility provisions under Section 4980H of the Code (ACA), and (b) otherwise satisfy the requirements of the Code § 4980H (ACA).

a. Prison Rape Elimination Act

Contractor shall comply with the Prison Rape Elimination Act ~~42~~ 34 U.S.C.~~A.~~ § 3031 et seq. ~~15601ff~~, the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy ~~1.3.14~~ 1.1.17, Prison Rape Elimination Act, and ~~ACCD 1.3.1400 PREA~~ PFB 6.2.404 PREA Compliance and Reporting to include incident reporting. Contractor shall establish a zero-tolerance policy to incidents of sexual assault/rape or sexual misconduct.

~~DEPARTMENT will provide PREA instructor training classes. CONTRACTOR shall be required to send instructor candidates to the instructor PREA training program.~~

Contractor shall require applicable staff to attend ~~the basic PREA training and such~~ ongoing annual training as may be required by law~~, DEPARTMENT~~ State, and Contractor policy. Contractor shall require first-line responders or staff who may be involved in incidents of sexual assault/rape or sexual misconduct to attend specialized PREA training. Contractor shall provide proof of compliance. Contractor shall ensure that during orientation offenders receive Facility orientation and orientation material regarding PREA. Offenders shall be required to sign an acknowledgement of having received the information. Contractor shall report all incidents or suspected incidents of staff misconduct as per MDOC Policy 1.1.6 Priority Incident Reporting and Acting Director System and ~~ACCD 1.1.600 Priority Incident Reporting~~ PPD 1.1.600 Priority Incident Reporting to ~~DEPARTMENTS'~~ State's ~~Prerelease~~ Contract Manager or designee, as well as, all reportable incidents of sexual assault/rape, sexual misconduct or sexual acts involving offenders.

There are no changes to subsections 1.J.2., 1.J.3., 1.J.4., and 1.K.

L. Hold Harmless and Indemnification

1. Contractor agrees to be financially responsible (liable) for any audit exceptions or other financial loss to ~~DEPARTMENT~~ State due to the negligence, intentional acts, or failure for any reason to comply with terms of this Contract.

~~2. CONTRACTOR agrees to protect, defend, indemnify, and hold harmless the DEPARTMENT, its elected and appointed officials, agents and employees from and against all 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.~~

2. Contractor shall protect, defend, indemnify, and save harmless the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, from and against all claims, liabilities, demands, causes of action, judgments, and losses, including all costs of defense and reasonable attorney fees, arising in favor of or asserted by Contractor's employees and agents, its subcontractors, its subcontractor's employees and agents, or third parties on account of property damage, personal injury, bodily injury, death, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of or in connection with this Contract.

   Contractor waives all claims, demands, causes of action, and recourse against the State, including claims of contribution or indemnity, arising in favor of Contractor on account of property damage, personal injury, bodily injury, death, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of or in connection with this Contract.

There are no changes to subsections 1.M. through 1.V.

~~W. Liquidated Damages~~
~~Not applicable.~~

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X. Policy and Procedures Changes and Reference List

Incorporated herein is the ~~DEPARTMENT'S~~ State's applicable ~~ACCD Standard Operating~~ Procedure Manual. Procedures listed in this manual are subject to compliance monitoring once they have gone through the twenty (20) day (working) review/comment period described later in this section. The contractor is not required to comply with policies or Administrative Rules that govern the operations of Probation and Parole unless they are specifically cross-referenced in the body of the policy or Administrative Rule as applicable to the Contractor's operations and have been through the twenty (20)-day (working) review/comment period. Contractor may submit written comments on all revisions as provided for in ~~ACCD 1.1.200 Policy Management System~~ PFB 6.1.200 PFB Procedure Management. If the ~~DEPARTMENT~~ State proposes or considers Administrative Rule or Policy changes affecting Contractor's financial operation or the intent of the Contract, ~~DEPARTMENT~~ State agrees to negotiate these changes with the Contract prior to implementation of said Administrative Rules or Policies. ~~DEPARTMENT~~ State will not implement procedures or policies that affect Contractor's financial operation or the intent of the Contract without mutual agreement. Neither Contractor nor ~~DEPARTMENT~~ State will unreasonably withhold agreement.

~~DEPARTMENT~~ State will only make revisions to the procedure manual after a twenty (20)-day (working) review/comment period by both parties. ~~DEPARTMENT~~ State will conduct quarterly meetings with Facility Directors and Administrators to review and discuss proposed policy changes, and if necessary, conduct a conference call with Contractor prior to the quarterly meeting to discuss and review items of an emergent matter. If parties are in disagreement about policies that do not affect Contractor's financial operations or the intent of the Contract, final approval is at the discretion of ~~DEPARTMENT~~ State.

Upon agreement by both parties, implementation of policy will occur immediately upon finalization and agreement of policy. ~~CONTRACTOR'S compliance with Emergency Preparedness processes will be excluded from the terms outlined above until final written agreement between DEPARTMENT and CONTRACTOR is executed.~~ All current policies and procedures will be maintained on the DOC website with applicable revision dates noted. Those policies with Restricted Distribution (RD) will be forwarded directly to applicable facilities upon finalization and revision.

Contractor must follow ~~ACCD Procedure Manual~~ and ~~ACCD 1.1.200 Procedure Management System.~~ PFB 6.1.200 PFB Procedure Management and the applicable Procedure Manual.

There are no changes to subsections 1.Y., 1.Z., and 1.AA.

AB. REGISTRATION WITH THE SECRETARY OF STATE

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are domiciled in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with §§ 35-14-1505, 35-8-1001, and 35-12-1309 MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing

in Montana. §§ 35-8-1001, 35-12-1302, and 35-14-1502, MCA. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at http://sosmt.gov.

2) In accordance with Section 2, of the above-referenced contract, entitled Program Requirements and Design, the parties mutually agree to the following changes to subsections 2.A., 2.B., 2.C., and to the addition of new subsection 2.C.17. In the event any subsections are removed, subsequent subsections will not be renumbered. **(New language underlined, deleted language interlined.)**

A. Performance Measures

1. Statistical reports

Contractor must follow ~~ACCD 1.6.200 Statistical Reports~~ PFB 6.2.409 Statistical Contractor Reports.

There are no changes to 2.A.2.

B. Screening/Eligibility

Contractor must follow ~~ACCD 4.1.100 Screenings for Incarcerated Adult Offenders~~ PPD 4.1.100 Screenings for Adult Offender Placement.

C. Programming and Curriculum (Specific to RFP or Previous Contracts)

1. Contractor must follow ~~ACCD 5.1 .202 PRC Program Structure~~ PFB 6.2.407 Program Structures.

2. ~~CP&R~~
~~CONTRACTOR must follow ACCD 5.3.100 CP&R.~~ Contractor must follow PFB 6.2.459 Treatment and Programs for Adult Offenders.

~~3. Criminal Thinking Errors~~
~~CONTRACTOR must follow ACCD 5.3.200 Criminal Thinking Errors (CTE).~~

~~4. Anger Management~~
~~CONTRACTOR must follow ACCD 5.3.300 Anger Management~~

~~5. Chemical Dependency Programming~~
~~CONTRACTOR must follow ACCD 5.4.100 Chemical Dependency~~.

6. Victim Services
Contractor must follow ~~ACCD 1.8.100 Victim Services, ACCD 1.8.101 Victim-Offender Dialogue, ACCD 1.8.200 Victim Impact Panels, and ACCD 5.3.400 Victimology~~ PFB 6.2.411 Victim Services.

~~7. KNIGHTS~~
~~Not Applicable.~~

~~8. Transitional Living Program (TLP)~~
~~Not Applicable.~~

~~9. Enhanced Supervision Program (ESP)~~
~~Not Applicable.~~

~~10. WATCh related programs~~
~~Not Applicable.~~

~~11. Booter Aftercare~~
~~Not Applicable.~~

There are no changes to 2.C.12.

~~13. Extended Treatment Program (ETP)~~
~~Not Applicable.~~

~~14. Culinary Arts Program (CAP)~~
~~Not Applicable.~~

~~15. ADT Probation Sanction Program~~
~~Not Applicable.~~

~~16. Sex Offender Placement~~
~~Not Applicable.~~

17. Risk and Needs Assessment
Contractor must follow PPD 1.5.1200 Subject: Risk and Needs Assessments for Adult Case Management.

3) In accordance with Section 3, of the above-referenced contract, entitled Offender Management, the parties mutually agree to the following changes to subsections 3.A., 3.B., 3.C., 3.D., 3.E., 3.F., 3.G., 3.H., 3.I., 3.J., 3.K. In event any subsections are removed, subsequent subsections will not be renumbered. **(New language underlined, deleted language interlined.)**

A. Offender Reports

Contractor must follow ~~1.6.300 Contractor Reports~~ PFB 6.2.409 Statistical and Contractor Reports.

B. Offender fees/fines/R&B

Contractor must follow ~~ACCD 1.2.700 Offender Money Management~~ PFB 6.2.407 Program Structures.

C. Length of Stay (LOSs)

Contractor must follow ~~ACCD 5.1.102 Length of Stays~~ PFB 6.2.437 Lengths of Stay.

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D. Offender Misconduct & Removal from Facility

Contractor must follow ~~ACCD 3.4.100 Offender Discipline and ACCD 3.4.101 Disciplinary Codes.~~ PFB 6.2.424 Disciplinary Process in Contract Facilities.

~~1. Detention~~
~~CONTRACTOR must follow ACCD 3.4.102 Offender Removal and Detention. CONTRACTOR will follow ACCD 5.1.104 Warrants for Offenders in ACCD Programs/Facilities.~~

2. Unlawful Offender Behavior
Contractor shall report allegations of criminal conduct of offenders to local law enforcement officials and ~~DEPARTMENT~~ State. Contractor shall cooperate with any administrative or criminal investigation regarding an offender. ~~In accordance with P&P 40-2, Offender Informants, u~~ Under no circumstances may an offender be permitted to act as an operative/informant (i.e. actively engaging in "controlled enforcement" activities that would ordinarily be considered a violation of the law) for law enforcement officials.

E. Escape

Contractor must follow ~~ACCD 3.2.100 Escape~~ PFB 6.2.422 Facility Escapes.

F. Transportation/Travel/Driving Privileges

Contractor must follow ~~ACCD 5.1.103 Offender Travel~~ PFB 6.2.433 Facility Offender Travel.

G. Administrative Transfer/~~Overrides~~

Contractor must follow ~~ACCD 4.6.200 Administrative Transfers/Overrides~~ PFB 6.1.202 Administrative Transfers.

H. Security/Counts

1. Contractor must follow:

There are no changes to a., b., or c.

d. ~~ACCD 3.1.1300 Key Control and ACCD 3.1.1400 Tool Control~~ PFB 6.2.431 Key and Tool Controls.
e. ~~ACCD 3.1.1700 Searches and Contraband Control~~ PFB 6.2.425 Searches and Contraband Control.
f. ~~ACCD 3.1.500 Entrance Procedures~~ PFB 6.2.426 Entrance and Visitation Procedures.
g. ~~ACCD 3.1.300 Logs and Record-Keeping Systems~~ PFB 6.2.412 Logs and Record-Keeping Systems.

I. Drug/Alcohol Testing/UAs

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Contractor must follow ~~ACCD 3.1.2000 Offender Drug and Alcohol Testing Program~~ PFB 6.2.432 Facility Offender Substance Use Testing.

J. Healthcare

Contractor must follow ACCD ~~4.5.200 Healthcare Responsibilities~~ PPD 4.5.200 Health Care Responsibilities, ~~ACCD 4.5.201 Urgent and Emergent Pre-Authorization Process,~~ ACCD 4.5.1600 Offender Non-Emergency Health Requests, ~~ACCD 4.5.202 Inmate Worker Healthcare~~ PPD 5.1.101 Inmate Worker, ACCD 4.5.1000 Level of Therapeutic Care, ~~ACCD 4.5.1500 Offender Health Care Access~~ PPD 4.5.1500 Offender Health Care Access, ACCD 4.5.1700 Offender Sick Call, ~~and ACCD 4.5.2000 Emergency Medical Services~~ PPD 4.5.2000 Emergency Medical Services, ACCD 4.5.300 Medical Autonomy, ACCD 4.5.400 Health Care Credentialing, ACCD 4.5.1100 Infection Control Program, ACCD 4.5.1400 Alt-Secure Offender Intake Health Screenings, ACCD 4.5.1401 Prerelease Resident Intake Health Screenings, ACCD 4.5.1900 Nursing Assessment Protocols, and PPD 4.5.2500 Pharmaceuticals.

K. Offender Rights

1. Religion

Contractor must follow ~~ACCD 5.6.100 Religion~~ PFB 6.2.461 Religious Activity.

2. Grievances

Contractor must follow ~~ACCD 3.3.300 Grievances~~ PFB 6.1.206 PFB Offender Grievance Appeals.

3. Property/Clothing

Contractor must follow ~~ACCD 4.1.300 Property~~ PFB 6.2.421 Offender Personal Property.

4. Canteen

Contractor must follow ~~ACCD 3.3.500 Canteen~~ PFB 6.2.434 Canteen.

There are no changes to subsection 3.K.5.

6. Telephone

Contractor must follow ~~ACCD 3.3.700 Telephone~~ PFB 6.2.428 Telephone Use in PFB Contract Facilities.

7. Visitation

Contractor must follow ~~ACCD 3.3.800 Visitation~~ PFB 6.2.426 Entrance and Visitation Procedures.

4) In accordance with Section 4, of the above-referenced contract, entitled Facility Management, the parties mutually agree to the following changes to subsections 4.A., 4.B., 4.C. In the event any subsections are removed, subsequent subsections will not be renumbered. **(New language underlined, deleted language interlined.)**

A. Facility Administration

There are no changes to 4.A.1. and 4.A.2.

3. Inmate Worker Position

Contractor must follow ~~ACCD 5.1.101 Inmate Workers~~ PPD 5.1.101 Inmate Workers.

There are no changes to 4.A.4.

B. Food Service

Contractor must follow ~~ACCD 4.3.100 Food Services~~ PFB 6.2.429 Food Services.

C. Staffing/Certification/Training

To promote public safety and offender accountability, staffing must be adequate to meet safety and Program needs and shall be established in agreement with MDOC and in accordance with ~~the following policies and procedures:~~ PFB 6.2.406 Staffing Requirements and Training.

~~1. Staff Recruitment/Selection/Licensure/Certification~~
~~CONTRACTOR must follow ACCD 1.3.400 Staff Recruitment, Selection, and Licensure/Certification.~~

~~2. Staffing Plans/Patterns~~
~~CONTRACTOR must follow ACCD 1.3.401 Staffing Plans/Patterns.~~

~~3. Staff Training~~
~~CONTRACTOR must follow ACCD 1.4.100 Staff Training.~~

4. Background Staff Investigations
Contractor must follow ~~ACCD 1.3.402 Background Investigations~~ PFB 6.2.402 Background Checks.

Except as modified above, all other terms and conditions of Contract No. **07-015-ACCD, including Amendments #1 through #4**, remain unchanged.

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

DocuSigned by:
Megan Coy 12/29/2022
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Megan Coy, Bureau Chief (Date)
Community, Corrections Facilities
and Programs Bureau

CCCS, Inc.
471 E. Mercury
Billings, MT 59701

DocuSigned by:
Mike Thatcher 12/28/2022
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Mike Thatcher, CEO (Date)

Approved as to Form:

DocuSigned by:
Ashley Salmon 12/27/2022
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Ashley Salmon, Contracts Officer (Date)
Financial Services Bureau

Approved as to Legal Content:

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12/27/2022
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Molenda McCarty, Legal Counsel (Date)
Legal Services Bureau

Approved for Montana Facility Finance Authority by:

DocuSigned by:
Adam Gill 12/27/2022
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Adam Gill, Executive Director (Date)

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CONTRACT AMENDMENT NO. 4
NEXUS TREATMENT CENTER
CONTRACT NO: 07-015-ACCD

This CONTRACT AMENDMENT No. 4 amends the above-referenced contract between the **State of Montana, Department of Corrections** (State), whose address and phone number are P.O. Box 201301, 5 South Last Chance Gulch, Helena, MT 59620-1301, (406) 444-3930 and **Community, Counseling, and Correctional Services, Inc.**, (Contractor), whose address and phone number are 471 East Mercury, Billings, MT 59701, (406) 782-0417. This Contract is amended for the following purpose(s):

WHEREAS, the State of Montana, Department of Corrections is hereinafter referred to as "State" rather than "Department", in the opening paragraph, all references in the original contract, and all previous amendments.

1) In accordance with Section 1.G., of the above referenced contract, entitled Compensation/Billing, the parties mutually agree to changes in subsections 1.G.1.a. and 1.G.1.b. to reflect rate increases for FY 2022 and FY 2023. **(deleted language is interlined and followed by new language which is underlined)**.

1.G.1.a. Total contract amount.

~~**FY 2020 (July 1, 2019 - June 30, 2020) and FY 2021 (July 1, 2020 - June 30,2021)** Contract Maximum reimbursement shall not exceed **$3,923,330** (three million nine hundred twenty-three thousand three hundred thirty and 00/100) annually for **FY 2020** and **$3,984,267** (three million nine hundred eighty-four thousand two hundred sixty-seven and 00/100) annually for **FY 2021**. The contract maximum amount includes all compensation noted in this contract except "special needs" and stipend funding.~~

1.G.1.a. Total contract amount.

FY 2022 (July 1, 2021 - June 30, 2022) and FY 2023 (July 1, 2022 - June 30, 2023) Contract Maximum reimbursement shall not exceed **$4,024,176** (four million twenty-four thousand one hundred seventy-six and 00/100) annually for **FY 2022** and **$4,064,392** (four million sixty-four thousand three hundred ninety-two and 00/100) annually for **FY 2023**. The contract maximum amount includes all compensation noted in this contract except transitional assistance funding.

1.G.1.b. Offender Per Diem Rates.

~~**FY 2020 (July 1, 2019 - June 30, 2020) and FY 2021 (July 1, 2020 - June 30, 2021)** **Nexus/Lewistown**: For the contract period **FY 2020**, DEPARTMENT will pay CONTRACTOR a per diem rate of **$129.40** (one hundred twenty-nine and 40/100 dollars) per offender, per day. For the contract period **FY 2021**, DEPARTMENT will pay CONTRACTOR a per diem rate of **$131.77** (one hundred thirty-one and 77/100 dollars) per offender, per day. Program capacity at the Nexus/Lewistown facility is eighty-two (82) Methamphetamine and related drug treatment beds and two (2) inmate workers. Maximum. compensation is calculated at an Average Daily Population of eighty- two (82) beds for the contract year. DEPARTMENT will pay CONTRACTOR a per diem rate of **$54.34** (fifty-four and 34/100 dollars) not to exceed $39,777 for **FY 2020 and $55.33** (fifty-five and 33/100 dollars) not to exceed $40,391 for **FY 202**1 for two (2) Inmate workers.~~

1.G.1.b. Offender Per Diem Rates.

FY 2022 (July 1, 2021 - June 30, 2022) and FY 2023 (July 1, 2022 - June 30, 2023) Nexus/Lewistown: For the contract period **FY 2022**, State will pay Contractor a per diem rate of **$133.09** (one hundred thirty-three and 09/100 dollars) per offender, per day. For the contract period **FY 2023**, State will pay Contractor a per diem rate of **$134.42** (one hundred thirty-four and 42/100 dollars) per offender, per day. Program capacity at the Nexus/Lewistown facility is eighty-two (82) Methamphetamine and related-drug treatment beds and two (2) inmate workers. Maximum compensation is calculated at an Average Daily Population of eighty-two (82) beds for the contract year. State will pay Contractor a per diem rate of **$55.88** (fifty-five and 88/100 dollars) not to exceed $40,792 for **FY 2022 and $56.44** (fifty-six and 44/100 dollars) not to exceed $41,201 for **FY 2023** for two (2) inmate workers.

Except as modified above, all other terms and conditions of Contract No. **07-015-ACCD, including Amendments #1 through #3,** remain unchanged.

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

DocuSigned by:
Megan Coy 6/23/2022
81BB6FEFC95846B...
Megan Coy, Bureau Chief (Date)
Community Corrections Facilities
and Programs Bureau

CCCS, Inc.
471 E. Mercury
Butte, MT 59701

DocuSigned by:
Mike Thatcher 6/21/2022
887EC58E425C4D2...
Mike Thatcher, CEO (Date)

Approved as to Form:

DocuSigned by:
Carleen Green 6/21/2022
B15D8BA0850A493...
Carleen Green, Contracts Manager (Date)
Financial Services Bureau

Approved as to Legal Content:

DocuSigned by:
6/21/2022
41E915492B274F4...
Molenda McCarty, Legal Counsel (Date)
Legal Services Bureau

CONTRACT AMENDMENT
CONTRACT 07-015-ACCD Revised FY - 14

THIS CONTRACT AMENDMENT (**Amendment #3**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 5 S. Last Chance Gulch, Helena, Montana 59620-1301 and **Community, Counseling, and Correctional Services, Inc.** (CONTRACTOR) 471 East Mercury, Butte, MT 59701 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of June 1, 2007 and Section P provides that the parties may modify their agreement in writing; and

WHEREAS, Section B(4) provides that the parties may negotiate the terms of this contract every two years.

NOW THEREFORE, the parties agree to amend the Contract as follows **(new language underlined, old language interlined)**:

G. Compensation/Billing

1. Compensation:

a. Total contract amount

FY 2020 (July 1, 2019 – June 30, 2020) and FY 2021 (July 1, 2020 – June 30, 2021)
Contract Maximum reimbursement shall not exceed **$3,923,330** (three million nine hundred twenty-three thousand three hundred thirty and 00/100) annually for **FY 2020** and **$3,984,267** (three million nine hundred eighty-four thousand two hundred sixty-seven and 00/100) annually for **FY 2021**. The contract maximum amount includes all compensation noted in this contract except "special needs" and stipend funding.

~~2018 and 2019 (July 1, 2017 – June 30, 2019)~~
~~Contract Maximum reimbursement shall not exceed $3,877,235 annually for the contract period beginning July 1, 2017 and ending June 30, 2019. The contract maximum amount includes all compensation noted in this contract except "special needs" and stipend funding.~~

b. Offender per diem rates

FY 2020 (July 1, 2019 – June 30, 2020) and FY 2021 (July 1, 2020 – June 30, 2021)

Nexus/Lewistown: For the contract period **FY 2020**, DEPARTMENT will pay CONTRACTOR a per diem rate of **$129.40** (one hundred twenty-nine and 40/100 dollars) per offender, per day. For the contract period **FY 2021,** DEPARTMENT will pay CONTRACTOR a per diem rate of **$131.77** (one hundred thirty-one and 77/100 dollars) per offender, per day. Program capacity at the Nexus/Lewistown facility is eighty-two (82) Methamphetamine and related drug treatment beds and two (2) inmate workers. Maximum compensation is calculated at an Average Daily Population of eighty- two (82) beds for the contract year. DEPARTMENT will pay CONTRACTOR a per diem rate of **$54.34** (fifty-four and 34/100 dollars) not to exceed $39,777 for **FY 2020 and $55.33** (fifty-five and 33/100 dollars) not to exceed $40,391 for **FY 2021** for two (2) Inmate Workers.

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~~2018 and 2019 (July 1, 2017 – June 30, 2019)~~

~~Nexus/Lewistown: For the contract period beginning July 1, 2017 and ending June 30, 2019, DEPARTMENT will pay CONTRACTOR a per diem rate $128.23 (one hundred twenty-eight and 23/100 dollars) per offender, per day Program capacity at the Nexus/Lewistown facility is eighty-two (82) Methamphetamine and related drug treatment beds and two (2) inmate workers. Maximum compensation is calculated at an Average Daily Population of eighty- two (82) beds for the contract year. DEPARTMENT will pay CONTRACTOR a per diem rate of $53.85 (fifty-three and 85/100 dollars for two (2) Inmate Workers – not to exceed $39,311.~~

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

DEPARTMENT

Megan Coy, Bureau Chief
Programs and Facilities Bureau

8/23/2019
Date

CONTRACTOR

Mike Thatcher, Chief Executive Officer
Community, Counseling, and Correctional Services, Inc.

7/30/19
Date

Reviewed for Legal Content by: Lorraine A. Schneider
Legal Counsel
Department of Corrections

Aug 8 2018
Date

Approved for Montana Facility Finance Authority by:

Executive Director

8/9/2019
Date

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

Reviewed as to Form by:

Department of Corrections, Procurement Officer Date 8-6-19

CONTRACT AMENDMENT
CONTRACT 07-015-ACCD Revised FY - 14

THIS CONTRACT AMENDMENT (**Amendment #2**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 5 S. Last Chance Gulch, Helena, Montana 59620-1301 and **Community, Counseling, and Correctional Services, Inc.** (CONTRACTOR) 471 East Mercury, Butte, MT 59701 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of June 1, 2007 and Section P provides that the parties may modify their agreement in writing; and

WHEREAS, Section B(4) provides that the parties may negotiate the terms of this contract every two years.

NOW THEREFORE, the parties agree to amend the Contract as follows **(new language underlined, old language interlined)**:

G. Compensation/Billing

1. Compensation:

a. Total contract amount

~~**FY – 2016 (July 1, 2015 – June 30, 2016)**~~
~~Contract Maximum reimbursement shall not exceed **$3,830,556** for the contract period beginning July 1, 2015 and ending June 30, 2016. The contract maximum amount includes all compensation noted in this contract except "special needs" and stipend funding.~~

FY ~~– 2017 (July 1, 2016 – June 30, 2017)~~ 2018 and 2019 (July 1, 2017 – June 30, 2019)
Contract Maximum reimbursement shall not exceed ~~**$3,896,587**~~ **$3,877,235** annually for the contract period beginning July 1, ~~2016~~ 2017 and ending June 30, ~~2017~~ 2019. The contract maximum amount includes all compensation noted in this contract except "special needs" and stipend funding.

b. Offender per diem rates

~~**FY – 2016 (July 1, 2015 – June 30, 2016)**~~

~~**Nexus/Lewistown:** For the contract period beginning July 1, 2015 and ending June 30, 2016, DEPARTMENT will pay CONTRACTOR a per diem rate of **$126.34 (one hundred twenty-six and 34/100 dollars) per offender, per day** at the Nexus/Lewistown facility. Program capacity at the Nexus/Lewistown facility is **eighty-two (82)** Methamphetamine & related drug treatment beds and two (2) inmate workers. Maximum compensation is calculated at an Average Daily Population of **eighty-two (82)** beds – **not to exceed $3,791,716** for the contract year. DEPARTMENT will pay CONTRACTOR a per diem rate of **$53.06 (fifty-three and 06/100 dollars)** for two (2) Inmate Workers – **not to exceed $38,840.**~~

FY ~~2017 (July 1, 2016 – June 30, 2017)~~ 2018 and 2019 (July 1, 2017 – June 30, 2019)

Nexus/Lewistown: For the contract period beginning July 1, ~~2016~~ 2017 and ending June 30, ~~2017~~ 2019, DEPARTMENT will pay CONTRACTOR a per diem rate **~~$128.87 (one hundred twenty-eight and 87/100 dollars)~~ $128.23 (one hundred twenty-eight and 23/100 dollars) per offender, per day** Program capacity at the Nexus/Lewistown facility is **eighty-two (82)** Methamphetamine and related drug treatment beds and two (2) inmate workers. Maximum compensation is calculated at an Average Daily Population of **eighty-two (82)** beds for the contract year. DEPARTMENT will pay CONTRACTOR a per diem rate of **~~$54.12 (fifty-four and 12/100 dollars)~~ $53.85 (fifty-three and 85/100 dollars** for two (2) Inmate Workers – **not to exceed ~~$39,508~~ $39,311.**

2. Program Requirements and Design

17. Evidence Based Practices (EBP)

a. All programming and treatment delivered to offenders shall adhere to evidence-based or research-driven practices and shall be subject to ongoing quality assurance and evaluation to ensure fidelity to delivery standards.

b. All programming and treatment shall be delivered by appropriately trained personnel as required by delivery standards.

c. CONTRACTOR will submit an annual report during the month of July to the Facilities Contract Manager that describes current treatment and programming available within the facility and through referral to offenders.

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

DEPARTMENT

DocuSigned by:
Kevin Olson
0F69E730A0EA445...

12/26/2017

Kevin Olson, Administrator
Probation and Parole Division

Date

CONTRACTOR

DocuSigned by:
Mike Thatcher
B78D019230194D6...

3/1/2018

Mike Thatcher, Chief Executive Officer
Community, Counseling, and Correctional Services, Inc.

Date

Reviewed for Legal Content by:

DocuSigned by:
Colleen Ambrose
FFF888078013447...

12/22/2017

Legal Counsel
Department of Corrections

Date

Approved for Montana Facility Finance Authority by:

DocuSigned by:
Adam Gill
ABE784C84C5F463...

Executive Director

3/1/2018

Date

CONTRACT AMENDMENT
CONTRACT 07-015-ACCD Revised FY - 14

THIS CONTRACT AMENDMENT (**Amendment #1**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 5 S. Last Chance Gulch, Helena, Montana 59620-1301 and **Community, Counseling, and Correctional Services, Inc.** (CONTRACTOR) 471 East Mercury, Butte, MT 59701 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of June 1, 2007 and Section P provides that the parties may modify their agreement in writing; and

WHEREAS, Section B(4) provides that the parties may negotiate the terms of this contract every two years.

NOW THEREFORE, the parties agree to amend the Contract as follows **(new language underlined, old language interlined)**:

G. Compensation/Billing

1. Compensation:

a. Total contract amount

FY – ~~2014 (July 1, 2013 – June 30, 2014)~~ 2016 (July 1, 2015 – June 30, 2016)
Contract Maximum reimbursement shall not exceed **~~$3,671,629.90~~ $3,830,556** for the contract period beginning July 1, ~~2013~~ 2015 and ending June 30, ~~2014~~ 2016. The contract maximum amount includes all compensation noted in this contract except "special needs" and stipend funding.

FY – ~~2015 (July 1, 2014 – June 30, 2015)~~ 2017 (July 1, 2016 – June 30, 2017)
Contract Maximum reimbursement shall not exceed **~~$3,745,104.40~~ $3,896,587** for the contract period beginning July 1, ~~2014~~ 2016 and ending June 30, ~~2015~~ 2017. The contract maximum amount includes all compensation noted in this contract except "special needs" and stipend funding.

b. Offender per diem rates

FY – ~~2014 (July 1, 2013 – June 30, 2014)~~ 2016 (July 1, 2015 – June 30, 2016)

Nexus/Lewistown: For the contract period beginning July 1, ~~2013~~ 2015 and ending June 30, ~~2014~~ 2016, DEPARTMENT will pay CONTRACTOR a per diem rate of **~~$121.43 (one hundred twenty-one and 43/100 dollars)~~ $126.34 (one hundred twenty-six and 34/100 dollars) per offender, per day** at the Nexus/Lewistown facility. Program capacity at the Nexus/Lewistown facility is **eighty-two (82)** Methamphetamine & related drug treatment beds and two (2) inmate workers. Maximum compensation is calculated at an Average Daily Population of **eighty-two (82)** beds – **not to exceed ~~$3,634,399.90~~ $3,791,716** for the contract year. DEPARTMENT will pay CONTRACTOR a per diem rate of **~~$51.00 (fifty-one and 00/100 dollars)~~ $53.06 (fifty-three and 06/100 dollars)** for two (2) Inmate Workers – **not to exceed ~~$37,230.00~~ $38,840.**

FY – ~~2015 (July 1, 2014 – June 30, 2015)~~ 2017 (July 1, 2016 – June 30, 2017)

Nexus/Lewistown: For the contract period beginning July 1, ~~2014~~ 2016 and ending June 30, ~~2015~~ 2017, DEPARTMENT will pay CONTRACTOR a per diem rate ~~of $123.86 (one hundred twenty-three and 86/100 dollars)~~ **$128.87 (one hundred twenty-eight and 87/100 dollars) per offender, per day** Program capacity at the Nexus/Lewistown facility is **eighty-two (82)** Methamphetamine and related drug treatment beds and two (2) inmate workers. Maximum compensation is calculated at an Average Daily Population of **eighty-two (82)** beds for the contract year. DEPARTMENT will pay CONTRACTOR a per diem rate of ~~$52.02 (fifty and 00/100 dollars)~~ **$54.12 (fifty-four and 12/100 dollars)** for two (2) Inmate Workers – **not to exceed ~~$37,974.60~~ $39,508.**

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

DEPARTMENT

Kevin Olson, Administrator
Probation and Parole Division

7/15/15
Date

CONTRACTOR

Mike Thatcher, Chief Executive Officer
Community, Counseling, and Correctional Services, Inc.

7/15/15
Date

Reviewed for Legal Content by:

Legal Counsel
Department of Corrections

7/15/15
Date

Approved for Montana Facility Finance Authority by:

Executive Director

7-22-15
Date

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Nexus

1. Standard Contract Terms

A. Parties

The Montana Department of Corrections (DEPARTMENT) and **Community, Counseling, and Correctional Services, Inc.** (CONTRACTOR) enter into this Contract **(07-015-ACCD Revised FY - 14)** for services. The parties mailing addresses, and telephone numbers, are as follows:

Montana Department of Corrections
Adult Community Corrections Division
5 South Last Chance Gulch
PO Box 201301
Helena MT 59620-1301
(406) 444-3930

Community, Counseling, and Correctional Services, Inc. (CCCS)
471 East Mercury
Butte, MT 59701
(406) 782-0417

1. Document Precedence

RFP# 06-001-METH, CONTRACTOR'S initial response, and revision and clarification of proposed rates, are hereby incorporated by reference and made a part of this Contract as if set forth in full herein. This Contract consists of, and precedence is established by, the order of the following documents incorporated into this Contract:

a. This Contract document;
b. CONTRACTOR'S Best and Final Offer, as amended/clarified by CONTRACTOR and accepted by DEPARTMENT
c. CONTRACTOR'S Response to the Request For Proposal document (RFP# 06-001-METH) and
d. The Request For Proposal document (RFP# 06-001-METH).

CONTRACTOR shall notify DEPARTMENT in writing of any apparent conflict between the referenced documents. All apparent conflicts shall be resolved by the parties according to the considerations set forth herein.

DEPARTMENT AND CONTRACTOR, AS PARTIES TO THIS CONTRACT AND FOR THE CONSIDERATION SET FORTH BELOW, AGREE AS FOLLOWS:

This Contract shall replace the previous Contract (#07-015-ACCD) in its entirety upon receipt of signatures by all parties.

B. Time of Performance

1. This Contract shall take effect June 1, 2007, and shall terminate on May 31, 2027, unless terminated earlier in accordance with the terms of this Contract.

2. Upon expiration of this Contract, and in the absence of a new written agreement, the terms listed herein shall continue to govern the agreement between the parties until such time as a new Contract is signed.

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3. It is understood and agreed that this Contract is dependent upon appropriation of funds for this Contract by the Montana Legislature. Further, the parties recognize that the act of appropriation is a legislative act. DEPARTMENT agrees to take such action as is necessary under the laws applicable to the State to timely and properly budget for and request the appropriation of funds from the Legislature of the State of Montana which will permit DEPARTMENT to make all payments required under this Contract.

4. On or about May 1, 2011, and every two years thereafter during the term of this Contract, the parties will arrange to meet to negotiate the terms of this contract for the succeeding two year period.

C. Liaisons and Notice

In order to effectively administer this contract, each party has appointed the following contract persons:

1. The Contact Persons for DEPARTMENT are:

Operational Issues:	Adult Community Corrections Division Administrator or designee
Contract Issues:	Treatment Contract Manager
Notice/Litigation:	Chief General Counsel
Emergency Contact:	Treatment Contract Manager

2. The Contact Persons for CONTRACTOR are:

Operational Issues:	Nexus Program Administrator (Primary)
	CCCS Director of CD Programs (Secondary)
Contract Issues:	CCCS Chief Executive Officer
Notice/Litigation:	CCCS Chief Executive Officer

Replacement of the positions identified herein shall be accomplished by written notice to the other party. All notices, reports, billings, and correspondence to the respective parties of this Contract shall be sent to the attention of the appropriate person in the positions listed above.

D. Access to Records – Offender Records/Files/OMIS access

CONTRACTOR must follow ACCD 1.5.500 Case Records Management and ACCD 1.5.600 Offender Records Access & Release. CONTRACTOR will follow ACCD 1.7.100 OMIS Access for Contract Facilities.

CONTRACTOR agrees to provide offender information to the Department through the Offender Management Information System (OMIS) by following ACCD 1.7.200 OMIS Entry. The DEPARTMENT will be responsible for the training and procedural guidelines of information in this procedure that must be entered into the system.

E. Access to Facility

With reasonable notice, DEPARTMENT employees, the Legislative Auditors Office, the Governor's Office, the Board of Pardons and Parole, and members of the Legislature shall have access to the Facility to allow for observation of the Program and its operation.

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CONTRACTOR agrees to provide DEPARTMENT, the Legislative Auditor, or their authorized agents with access to any records necessary to determine Contract compliance (Ref. 18-1-118, MCA). Access shall include, but not be limited to; program and financial records, CONTRACTORS staff, and offenders housed in the Facility. All such persons desiring access to the Facility shall be subject to CONTRACTOR'S routine security inspection. CONTRACTOR shall be given reasonable advance notice to accommodate organized tours of the Facility.

F. Emergency Preparedness

1. CONTRACTOR must follow DOC 3.2.1 Emergency Management, DOC 3.2.1 Emergency Operations Plan, and ACCD 3.2.100 ACCD Facility Escapes/Walk-Aways. CONTRACTOR shall maintain written procedures to provide for the continued operation of the program in the event of an employee work stoppage, emergency, or disaster. The procedures shall include, but not be limited to: assignment of tasks and responsibilities, instructions for the use of alarm systems, notification of authorities, use of special emergency equipment, and specifications of escape routes and procedures. The emergency evacuation routes shall be posted at highly visible locations and explained to each new offender at orientation. The Facility shall conduct and maintain documentation of quarterly drills and evaluate the effectiveness of disaster procedures.

2. CONTRACTOR must have a written Contingency Plan approved by DEPARTMENT that addresses the following:

   a. An identified alternate location for offenders to reside temporarily for approximately a ninety (90) day duration, that provides adequate life support resources (i.e. food, shelter, water, personal hygiene) in the event of a natural or man-made event (i.e. earthquake, wildfire, prolonged/catastrophic utility failure, etc.) which renders the facility uninhabitable.

3. Work stoppage

   CONTRACTOR shall develop and maintain an emergency plan that addresses staffing during sick outs, strikes, and work stoppages at the Program and shall notify Local law enforcement personnel and the Treatment Contract Manager or designee once it becomes apparent that the Nexus program may become or, actually becomes, subject to a sick out, strike, or work stoppage.

4. Use of force

   Use of force by CONTRACTOR employees shall be consistent with MDOC Policies, 3.1.8 Use of Force and Restraints and ACCD 3.1.800 Use of Force; and MDOC 3.1.17 Searches and Contraband Control and ACCD 3.1.17 Searches and Contraband Control.

   The use or possession of firearms or gases for control of offenders will be consistent with state law and MDOC policies and procedures. Additionally, all such items will be prohibited at the facility except by local law enforcement and MDOC officials. The Nexus Program will have appropriate storage for firearms, etc. that may be brought on-site by local law enforcement personnel or transport officials.

5. Assumed Control/Emergency Operation of Facility by CONTRACTOR and/or DEPARTMENT

CONTRACTOR shall submit a detailed plan [to DEPARTMENT for review and approval] that identifies how the facility/program will cooperatively work with other jurisdictions to effectively coordinate the continuity of operations of the facility/program in the event of an emergency, consistent with federal guidelines.

The plan shall address offender disturbances, employee work stoppages, strikes, weather-related damages, or other serious events as outlined in DOC Policy 3.2.1 Emergency Management.

The plan shall also address the assumption of operations of the program or facility by DEPARTMENT in the event of CONTRACTOR'S bankruptcy or financial insolvency or if CONTRACTOR is unable to operate the facility.

G. Compensation/Billing

DEPARTMENT agrees to pay a daily per diem rate where "daily" means each day, or part of a day, including the first but not the last day of program participation/confinement. This applies to each subsection listed under Section G (1) below. For subsequent negotiations, DEPARTMENT will compensate CONTRACTOR at new negotiated rates effective July 1st of the beginning of the Fiscal Year if a new contract amendment has been signed by all the parties. The parties may extend final Contract signature to July 31st if there are extenuating circumstances (e.g. special sessions, pending legal opinion, or per statutory effective date). Contract approval will not be unreasonably withheld by either party. Should there be extenuating circumstances beyond July 31st, DEPARTMENT will pay the new negotiated rates to CONTRACTOR beginning on the first day of the month following the date of the last signature. If the parties cannot agree to the Contract terms by July 31st, the parties will resolve the impasse with mediation and the cost of mediation will be split equally between the parties. DEPARTMENT shall compensate CONTRACTOR for successful delivery of the services provided pursuant to Contract in the following manner:

1. Compensation:

   a. Total contract amount

      FY – 2014 (July 1, 2013 – June 30, 2014)
      Contract Maximum reimbursement shall not exceed **$3,671,629.90** for the contract period beginning July 1, 2013 and ending June 30, 2014. The contract maximum amount includes all compensation noted in this contract except "special needs" and stipend funding.

      FY – 2015 (July 1, 2014 – June 30, 2015)
      Contract Maximum reimbursement shall not exceed **$3,745,104.40** for the contract period beginning July 1, 2014 and ending June 30, 2015. The contract maximum amount includes all compensation noted in this contract except "special needs" and stipend funding.

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b. Offender per diem rates

FY – 2014 (July 1, 2013 – June 30, 2014)

Nexus/Lewistown: For the contract period beginning July 1, 2013 and ending June 30, 2014, DEPARTMENT will pay CONTRACTOR a per diem rate of **$121.43** (one hundred twenty-one and 43/100 dollars) **per offender**, per day at the Nexus/Lewistown facility. Program capacity at the Nexus/Lewistown facility is **eighty-two (82)** Methamphetamine & related drug treatment beds and two (2) inmate workers. Maximum compensation is calculated at an Average Daily Population of **eighty-two (82)** beds – **not to exceed $3,634,399.90** for the contract year. DEPARTMENT will pay CONTRACTOR a per diem rate of **$51.00** (fifty-one and 00/100 dollars) for two (2) Inmate Workers – **not to exceed $37,230.00.**

FY – 2015 (July 1, 2014 – June 30, 2015)

Nexus/Lewistown: For the contract period beginning July 1, 2014 and ending June 30, 2015, DEPARTMENT will pay CONTRACTOR a per diem rate of **$123.86** (one hundred twenty-three and 86/100 dollars) **per offender**, per day – **not to exceed $3,707,129.80.** Program capacity at the Nexus/Lewistown facility is **eighty-two (82)** Methamphetamine and related drug treatment beds and two (2) inmate workers. Maximum compensation is calculated at an Average Daily Population of **eighty-two (82)** beds for the contract year. DEPARTMENT will pay CONTRACTOR a per diem rate of **$52.02** (fifty and 00/100 dollars) for two (2) Inmate Workers – **not to exceed $37,974.60.**

CONTRACTOR shall not exceed the capacity level for the facility by more than 5 beds or 5% of the total capacity number, whichever is greater, within a 30 day period unless specifically authorized by the DEPARTMENT. The DEPARTMENT, at its discretion, may request the CONTRACTOR exceed its capacity level by more than 5 beds or 5% of the total capacity number, whichever is greater, based on population needs, or other need identified by the DEPARTMENT.

c. Other per diem (TL, ESP, Sanction Beds, Jail Stays)

TL and ESP not applicable.

During an offender's detention placement, DEPARTMENT will continue payment to CONTRACTOR at the contracted per diem rate to allow CONTRACTOR to "hold" the bed until the offender's return. However, upon determination by DEPARTMENT Hearing Officer that the offender will be returned to a higher level of custody from CONTRACTOR detention center, CONTRACTOR will discontinue receiving per diem payments for the offender and may immediately fill the bed with another offender.

DEPARTMENT shall pay CONTRACTOR for male resident beds left temporarily vacant by offenders who are placed in a jail facility and/or those serving a sanction (and not a revocation), those who have quit, and those administratively transferred for medical or mental health stabilization to the START, and jail facilities, and who will be returning to the treatment center they were sanctioned from within a thirty (30) day time period. DEPARTMENT will not compensate CONTRACTOR for sanctions lasting beyond 30 days

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lasting beyond 30 days unless approved in writing by the DEPARTMENT. Longer stays require Division Administrator or designee approval.

d. Special funds (special needs, stipends, sex offenders)

Not Applicable.

e. Position compensation (nurse, mental health)

Not Applicable.

f. DEPARTMENT shall not reimburse CONTRACTOR for any offender whose length of stay extends beyond 270 days unless specifically authorized and approved in writing by the Treatment Contract Manager or designee, prior to the expiration of the 270-day period.

2. Billing/Payment:

a. All payments made under this Contract shall be made only upon submission by CONTRACTOR of an Invoice specifying the amounts due and certifying that services requested under the Contract have been performed in accordance with the Contract. Invoices shall be submitted no later than the 10th of each month and shall contain each offender name and (AO) number (Adult Offender # (AO#)) participating in the Nexus Program, the date of Program entry, and date of release, if applicable.

b. Per 17-8-242, MCA, DEPARTMENT agrees to pay CONTRACTOR within 30 days following receipt of a correct invoice. Invoices are subject to audit and adjustment by DEPARTMENT before and after payment is made. Unless such invoice is subjected to a special review or audit, DEPARTMENT will make every effort to pay CONTRACTOR or provide written explanation of exception, within 15 days of DEPARTMENT receiving a correct invoice.

c. The per diem rate constitutes the sole and exclusive payment by DEPARTMENT for the provision of all services required herein and shall remain in effect until changed by mutual agreement of both parties, except as otherwise specifically provided in this Contract.

d. CONTRACTOR must follow ACCD 1.1.700 Compliance Monitoring. DEPARTMENT may withhold payments to CONTRACTOR in an amount equal to the additional costs to the DEPARTMENT or $1,000.00 per month, whichever is greater, for failure to perform in accordance with the terms of this Agreement. However, prior to withholding payment, DEPARTMENT shall notify CONTRACTOR and the MFFA (hereinafter defined, and if facility is financed by MFFA), in writing, of its failure to perform. The notice shall specify acts or omissions constituting the default. If CONTRACTOR fails to remedy the default or submit an action plan deemed acceptable by DEPARTMENT within 60 calendar days of receipt of notice [documented by certified mail], DEPARTMENT may withhold payments. DEPARTMENT may allow CONTRACTOR additional time, as appropriate, provided CONTRACTOR demonstrates a good faith effort to achieve compliance.

e. The Contract number must be referenced on all invoices and correspondence pertaining to this Contract.

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3. Bonding (If financed with MFFA)

In order to provide financing of CONTRACTOR'S treatment center facility and improvements to such facility in August, 2006 CONTRACTOR requested the issuance of **$9,250,000** in tax-exempt bonds (the "Series 2006 Bonds") by the Montana Health Facility Authority (currently known as the Montana Facility Finance Authority and referred to herein as "MFFA") and a loan of the proceeds of the Series 2006 Bonds to CONTRACTOR pursuant to Montana Code Annotated Sections 90-7-226 through 228. As security for the Series 2006 Bonds, the MFFA required a written contract for services between CONTRACTOR and DEPARTMENT, which was executed August 8, 2006 and approved by MFFA pursuant to Section 90-7-226(1) MCA (the "August 2006 Contract"), required DEPARTMENT to commit to the following provisions during the term of the Bonds (and DEPARTMENT hereby ratifies these commitments in this contract):

a. Payment by DEPARTMENT for additional reimbursement for the cost of the new facility and the maintenance of a 115% debt service coverage for the Bonds. In addition, DEPARTMENT will review the CONTRACTOR'S yearly (audited) and quarterly (unaudited) financial statements (which the CONTRACTOR agrees to timely provide to DEPARTMENT for such review) to determine compliance with the Debt Service Coverage Requirement; and

b. guaranty of payment by DEPARTMENT for 75% of the contracted bed space. The amount of payment is designed to cover CONTRACTOR'S fixed costs for a guaranteed 75% of contracted bed space.

c. As part of the compensation and deducted monthly from DEPARTMENT'S regular payments to CONTRACTOR, by August 15th of each year, DEPARTMENT shall pay, on behalf of CONTRACTOR, to U.S. Bank National Association, as Trustee (the "Trustee") of the Bonds under an Indenture of Trust dated as of August 1, 2006, as supplemented for the issuance of the Series 2006 Bonds (the "Indenture"), the following amounts:

   i. the principal of and interest on the Bonds coming due in the following 12 months;
   ii. the Program Expenses (as defined in the Indenture);
   iii. any amounts necessary to make the Reserve Fund equal to the Reserve Requirement (as defined in the Indenture);
   iv. any amounts due under a Capital Reserve Account Agreement between the MFFA and the Board of Investments (as defined in the Indenture); and
   v. any amounts necessary to be paid into the Rebate Fund (as defined in the Indenture); less any funds accumulated in the Bond Fund (as defined in the Indenture).

d. If CONTRACTOR requests additional financing from MFFA for a treatment center project through the issuance of additional bonds issued under the Indenture and secured with the Bonds, on a parity basis, by the provisions of this contract, then the commitments of DEPARTMENT referenced in Section 3 shall also apply to such additional bonds.

H. Agency Assistance

Not Applicable.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

I. Intellectual Property

All patent and other legal rights in or to inventions created in whole or in part under this contract must be available to DEPARTMENT for royalty-free and nonexclusive licensing. Both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use and authorize others to use, copyrightable property created under this contract.

J. Compliance with Laws

1. State, federal, and local laws

CONTRACTOR must, in performance of work under the Contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008, Section 504 of the Rehabilitation Act of 1973, and Public Law 108-79 Prison Rape Elimination Act and the standards mandated therein. Any subletting or subcontracting by CONTRACTOR subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, CONTRACTOR agrees that the hiring of persons to perform the Contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by persons performing the Contract.

a. Prison Rape Elimination Act

CONTRACTOR shall comply with the Prison Rape Elimination Act 42 U.S.C.A. § 15601ff, the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.3.14, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident reporting. CONTRACTOR shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct.

DEPARTMENT will provide PREA instructor training classes. CONTRACTOR shall be required to send instructor candidates to the instructor PREA training program. CONTRACTOR shall require applicable staff to attend the basic PREA training and such on-going annual training as may be required by law, DEPARTMENT, and CONTRACTOR policy. CONTRACTOR shall require first-line responders or staff who may be involved in incidents of sexual assault/rape or sexual misconduct to attend specialized PREA training. CONTRACTOR shall provide proof of compliance. CONTRACTOR shall ensure that during orientation offenders receive Facility orientation and orientation material regarding PREA. Offenders shall be required to sign an acknowledgement of having received the information. CONTRACTOR shall report all incidents or suspected incidents of staff misconduct as per MDOC Policy 1.1.6 Priority Incident Reporting, Acting Director System, and ACCD 1.1.600 Priority Incident Reporting to DEPARTMENTS' Treatment Contract Manager or designee, as well as, all reportable incidents of sexual assault/rape, sexual misconduct or sexual acts involving offenders.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

2. Compliance with Worker's Compensation Act

Neither CONTRACTOR nor its employees are employees of the State. In accordance with sections 39-71-120, 39-71-401, and 39-71-405, MCA, Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana. CONTRACTOR shall provide proof of compliance in the form of workers' compensation insurance, an independent contractor exemption, or documentation of corporate officer status and maintain such insurance, exemption, or corporate officer status for the duration of the contract. CONTRACTOR shall submit a copy of all renewals of expired insurance and exemptions to: Department of Corrections, Contracts Management Bureau, Attn: Contracts Manager, PO Box 201301, Helena, MT 59620-1301.

3. Prevailing Wage

a. **Montana Resident Preference**. The nature of the work performed, or services provided, under this contract meets the statutory definition of a "public works contract" in section 18-2-401, MCA. Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of $25,000 for construction or nonconstruction services in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted in relation to these statutes. Unless superseded by federal law, each contractor shall ensure that at least 50% of a contractor's workers performing labor on a construction project are bona fide Montana residents.

The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with sections 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

b. **Standard Prevailing Rate of Wages.** In addition, unless superseded by federal law, all employees working on a public works contract shall be paid prevailing wage rates in accordance with sections 18-2-401 through 18-2-432, MCA, and all associated administrative rules. Montana law requires that all public works contracts, as defined in section 18-2-401, MCA, in which the total cost of the contract is in excess of $25,000, contain a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, travel, per diem, and zone pay that the contractors, subcontractors, and employers shall pay during the public works contract.

Furthermore, section 18-2-406, MCA, requires that all contractors, subcontractors, and employers who are performing work or providing services under a public works contract post in a prominent and accessible site on the project staging area or work area, no later than the first day of work and continuing for the entire duration of the contract, a legible statement of all wages and fringe benefits to be paid to the employees in compliance with section 18-2-423, MCA.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

Section 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis. Each contractor, subcontractor, and employer must maintain payroll records in a manner readily capable of being certified for submission under section 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract.

All contractors and employers shall classify each employee who performs labor on a public works project according to the applicable standard prevailing rate of wages for such craft, classification, or type of employee established by the Commissioner of the Montana Department of Labor and Industry, and shall pay each such employee a rate of wages not less than the standard prevailing rate as specified in the Montana Prevailing Wages Rates for Nonconstruction Services 2005. The booklet containing these 2005 rates is attached to this Contract and made a part thereof by reference. This information is also available electronically at the following address:
http://erd.dli.mt.gov/images/stories/pdf/labor_standards/prevailing_wage/2005nonconstructionservices.pdf

4. DNA

CONTRACTOR will comply with MDOC Policy 1.5.13, DNA Testing/Collection of Biological Samples by following the procedures outlined within the policy or utilizing a community resource to obtain DNA samples from designated offenders. Upon an applicable offender's release or return to custody, CONTRACTOR will forward written documentation [of the conducted sampling] to the supervising P&P Office or appropriate facility.

K. Fiscal Management/Reporting

1. Annual Reports

CONTRACTOR must have an independent financial audit conducted annually, at its expense, and submit these to the Treatment Contract Manager no later than December 31st of each calendar year.

2. No Adverse Change

On an annual basis, CONTRACTOR must certify by signature of its authorized representative, that since the date of CONTRACTOR'S most recent financial statements, there has not been any material adverse change in CONTRACTOR'S business or condition, nor has there been any change in the assets or liabilities or financial condition from that reflected in the financial statements which is material to CONTRACTOR'S ability to perform its obligations under this Contract. If requested, CONTRACTOR agrees to provide DEPARTMENT with a copy of its most recent financial statement, related to this specific Contract.

L. Hold Harmless and Indemnification

1. CONTRACTOR agrees to be financially responsible (liable) for any audit exceptions or other financial loss to DEPARTMENT due to the negligence, intentional acts, or failure for any reason to comply with terms of this Contract.

2. CONTRACTOR agrees to protect, defend, indemnify, and hold harmless the DEPARTMENT, its elected and appointed officials, agents and employees from and against all claims, causes of action,

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

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.

M. Insurance

1. **General Requirements:** CONTRACTOR shall maintain for the duration of the Contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by CONTRACTOR, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

   Primary Insurance: CONTRACTOR'S insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of CONTRACTOR'S insurance and shall not contribute with it.

   Deductibles and Self-Insured Retentions: Any deductible or self-insured retention must be declared to and approved by DEPARTMENT. At the request of DEPARTMENT either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, and volunteers; or (2) CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

   Certificate of Insurance/Endorsements: A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverage's must be received by the Contracts Management Bureau, PO Box 201301, Helena, MT 59620-1301 prior to start of work under this Contract. CONTRACTOR must immediately notify DEPARTMENT of any material change in insurance coverage, such as changes in limits, coverage's, policy status, etc. DEPARTMENT reserves the right to require complete copies of insurance policies at all times.

2. **Specific Requirements for Commercial General Liability:** CONTRACTOR shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of $1,000,000 per occurrence and $2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of CONTRACTOR or its officers, agents, representatives, assigns or subcontractors.

   Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered as additional insurers for liability arising either on account of CONTRACTOR'S acts or omissions causing the violation of any individual's civil rights, or bodily or personal injuries, death, or damage to property, or on account or arising out of services performed or the omissions of services.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

Specific Requirements for Automobile Liability: CONTRACTOR shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of $1,000,000 per occurrence and $2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of CONTRACTOR or its officers, agents, representatives, assigns or subcontractors.

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered as additional insured's for automobiles leased, hired, or borrowed by CONTRACTOR.

Specific Requirements for Professional Liability: CONTRACTOR shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of $1,000,000 per occurrence and $2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, negligence of CONTRACTOR or its officers, agents, representatives, assigns or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, CONTRACTOR may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the Contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered as additional insurers for liability arising either on account of CONTRACTOR'S acts or omissions causing the violation of any individual's civil rights, or bodily or personal injuries, death, or damage to property, or on account or arising out of services performed or the omissions of services.

N. Public Information

CONTRACTOR recognizes that this Contract is subject to public inspection pursuant to Article 2, § 9 of the Montana Constitution.

O. Assignment/Transfer/Subcontractors

CONTRACTOR shall not assign, sell, transfer, subcontract or sublet rights, or delegate duties under this Contract, in whole or in part, without the prior written approval of DEPARTMENT. No such written approval shall relieve CONTRACTOR of any obligation of this Contract and any transferee or subcontractor shall be considered the agent of CONTRACTOR. CONTRACTOR shall remain liable as between the original parties to the Contract as if no such assignment had occurred.

1. CONTRACTOR must keep DEPARTMENT informed about programmatic and health services work that CONTRACTOR subcontracts by submitting all subcontracts to the Treatment Contract Manager for review and approval at least 30 days prior to beginning of performance of the contract. DEPARTMENT shall submit its approval or revision recommendation in writing to CONTRACTOR.

P. Amendments/Changes

All amendments to this Contract shall be in writing and signed by the parties.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

Q. Contract Termination

1. Termination for Cause with Notice to Cure Requirements.

   DEPARTMENT may terminate this contract for failure of CONTRACTOR to perform any of the services, duties, or conditions contained in this contract after giving CONTRACTOR written notification of the stated failure. The written notice [documented by certified mail] must demand performance of the stated failure within a specified period of time of not less than sixty (60) calendar days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

   CONTRACTOR may terminate this Contract for failure of DEPARTMENT to perform any of the services, duties, or conditions contained in this Contract after providing DEPARTMENT with a written notification of the stated failure to perform. The written notice must demand performance of the stated failure to perform within a specified period of time of not less than sixty (60) days. If the demanded performance is not completed within the specified period, or at an agreed upon later date, the termination is effective at the end of the specified period. In the event CONTRACTOR exercises its right of termination, CONTRACTOR shall comply with the Procedure upon Termination set forth below in subsection 6.

2. Reduction of Funding

   DEPARTMENT must terminate this contract if funds are not appropriated or otherwise made available to support continuation of performance of this contract in a subsequent fiscal period. (See section 18-4-313(4), MCA)

3. Termination for Contractor Insolvency

   In the event of filing a petition for bankruptcy by or against CONTRACTOR, DEPARTMENT shall have the right to terminate the Contract upon the same terms and conditions as termination for default. Additionally, DEPARTMENT may terminate under the same terms and conditions as termination for default in the following circumstances:

   a. CONTRACTOR applies for or consents to the appointment of a receiver, trustee or liquidator of itself or of all or a substantial part of its assets;

   b. CONTRACTOR files a voluntary petition in bankruptcy;

   c. CONTRACTOR admits in writing its inability to pay its debts as they become due;

   d. CONTRACTOR makes a general assignment for the benefit of creditors;

   e. CONTRACTOR files a petition or an answer seeking reorganization or rearrangement with creditors or, as a debtor, invokes or takes advantage of any insolvency law; or

   f. A court of competent jurisdiction enters an order, judgment or decree, on the application of a creditor, adjudicating CONTRACTOR as bankrupt or insolvent or approving a petition seeking reorganization of CONTRACTOR or a substantial part of its assets, and such order, judgment or decree continues unstayed for thirty (30) days.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

If any of these circumstances occur, DEPARTMENT shall provide CONTRACTOR with written notice of the termination and provide a date when such termination will take effect.

4. Termination Due To Destruction or Condemnation

If the facility is totally or extensively damaged by fire or other casualty so as to prevent or substantially limit CONTRACTOR'S operations, or is condemned for public use by a legally constituted public authority, either party may terminate the Contract with written notice [documented by certified mail] provided to the other party within sixty (60) calendar days of the casualty or condemnation. The effective date of such termination shall be the date of the occurrence of the casualty or the effective date of the condemnation.

5. DEPARTMENT Procedure upon Termination

Upon delivery to CONTRACTOR of a Notice of Termination specifying the reason of the termination, the extent to which performance of work under the Contract is terminated, and the date on which such termination becomes effective, CONTRACTOR shall:

a. Stop work under the Contract on the date and to the extent specified in the Notice of Termination;

b. Place no further orders for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Contract that is not terminated;

c. Terminate all orders to the extent that they relate to the performance of work terminated by the Notice of Termination, except as may be necessary to avoid the occurrence of penalty assessments and the continuation of which DEPARTMENT has approved;

d. Assign to DEPARTMENT, or a subsequent contractor as the case may be, in the manner and to the extent directed by DEPARTMENT, all of CONTRACTOR'S right and interest under the orders so terminated, in which case DEPARTMENT or a subsequent contractor shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders;

e. With DEPARTMENT approval or ratification, settle all outstanding liabilities and all claims arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provision of the Contract;

f. Deliver files, processing systems, data manuals, and/or documentation, in any form, to DEPARTMENT at the time and in the manner requested by DEPARTMENT; and

g. Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

6. CONTRACTOR Procedure upon Termination

Upon delivery to DEPARTMENT of a Notice of Termination specifying the reason for termination (no cause shown or stated failure to perform) and the date on which such termination becomes effective, CONTRACTOR shall:

a. Stop work under the Contract on the date specified in the Notice of Termination or date negotiated with DEPARTMENT;
b. Place no further orders for materials, services, or facilities except as may be necessary for completion of such portion of work under the Contract to effectively terminate the Contract;

c. Terminate all orders to the extent that they relate to the performance of work terminated by the Notice of Termination;

d. Assign to the DEPARTMENT or a subsequent contractor specified by DEPARTMENT, in the manner and to the extent directed by DEPARTMENT, all of CONTRACTOR'S right and interest under the orders so terminated, in which case DEPARTMENT or a subsequent contractor shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders;

e. With DEPARTMENT approval or ratification, settle all outstanding liabilities and all claims arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this Contract;

f. Deliver files, processing systems, data manuals, and/or documentation, in any form, to the DEPARTMENT at the time and in the manner requested by DEPARTMENT.

CONTRACTOR shall proceed immediately with the performance of the above obligations outlined in section Q above, notwithstanding any delay in determining or adjusting the amount of any item of reimbursable price under this provision.

R. Choice of Law and Venue

The laws of Montana govern this Contract. The parties agree that any litigation concerning 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 (Ref. 18-1-401, MCA).

S. Licensure

CONTRACTOR agrees to provide copies of current licenses and certifications that register CONTRACTOR and any associates performing under this Contract.

T. Integration

This Contract contains the entire agreement between the parties and no statement, promises, or inducements made by either party or agents thereof, which are not contained in the written Contract, shall be binding or valid. This Contract shall not be enlarged, modified, or altered except upon written agreement signed by all parties to the agreement.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

U. Severability

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

V. Performance Security/Bond

CONTRACTOR must provide contract performance security in the amount of $200,000.00 (two hundred thousand and 00/100 dollars). This amount is based upon a rate of $2,500.00 per offender. All Contract performance security, except bonds, will be returned to CONTRACTOR after successful completion of the Contract. This security instrument provided by CONTRACTOR must remain in effect during the entire Contract period.

W. Liquidated Damages

Not Applicable.

X. Policy and Procedures Changes and Reference List

Incorporated herein is the DEPARTMENT'S ACCD Standard Operating Procedure Manual. Procedures listed in this manual are subject to compliance monitoring. CONTRACTOR may submit written comments on all revisions as provided for in ACCD 1.1.200 Policy Management System. If the DEPARTMENT proposes or considers Administrative Rule or Policy changes affecting CONTRACTOR'S financial operation or the intent of the Contract, DEPARTMENT agrees to negotiate these changes or the Contract prior to implementation of said Administrative Rules or Policies. DEPARTMENT will not implement procedures or policies that affect CONTRACTOR'S financial operation or the intent of the Contract without mutual agreement. Neither CONTRACTOR nor DEPARTMENT will unreasonably withhold agreement.

DEPARTMENT will only make revisions to the procedure manual after a twenty (20)-day (working) review/comment period by both parties. DEPARTMENT will conduct quarterly meetings with Facility Directors and Administrators to review and discuss proposed policy changes, and if necessary, conduct a conference call with CONTRACTOR prior to the quarterly meeting to discuss and review items of an emergent matter. If parties are in disagreement about policies that do not affect CONTRACTOR'S financial operations or the intent of the Contract, final approval is at the discretion of DEPARTMENT.

Upon agreement by both parties, implementation of policy will occur immediately upon finalization and agreement of policy

CONTRACTOR must follow ACCD Procedure Manual and ACCD 1.1.200 Policy Management System.

Y. Miscellaneous Matters

The parties agree that electronic transmissions, such as e-mails, may be used and considered as written transmissions under the terms of this Contract. The parties agree that where there are references to statutes, policies or administrative rules, those references shall automatically be amended to refer to renumbered statutes, policies, or administrative rules as appropriate.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

Z. Completed Contract

DEPARTMENT cannot disburse any payments under this Contract until a fully executed original Contract is returned to the Department of Corrections, Contracts Management Bureau, PO Box 201301, 5 South Last Chance Gulch, Helena, MT 59620-1301.

AA. Alternate Dispute Resolution

Any dispute between the parties concerning any and all matters related to this Contract will be resolved as follows:

a. Step 1: Each party will appoint a person who shall be responsible for administering the resolution procedures regarding claims. Those appointed persons should attempt to settle such claim. If they are unable to resolve the claim within thirty (30) days after either party notifies the other that the claim has been referred for resolution, either party may declare that an impasse has been reached and proceed to Step 2.

b. Step 2: Upon declaration of an impasse, the parties will seek mediation by a qualified mediator who will be agreed to by the parties or, if the parties cannot agree to a mediator within thirty (30) days of the decision to mediate, the party seeking mediation will choose the mediator. The cost of the mediation will be split equally between the parties.

   The mediator shall conduct all hearings and meetings in Helena, Montana. If non-binding mediation does not resolve the dispute, parties may proceed to Step 3 set out herein.

c. Step 3: Either party may seek any remedy available under law or the parties may agree to resolve the dispute with binding arbitration.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

2. Program Requirements and Design

A. Performance Measures

1. Statistical reports

   CONTRACTOR must follow ACCD 1.6.200 Statistical Reports.

2. Outcome Measures

   CONTRACTOR shall track outcome measures for determining "Offender Return Rate" or "Offender Recidivism Rate" by tracking and report to the DEPARTMENT by following ACCD 1.6.300 Contractor Reports, ACCD 1.6.200 Statistical Reports, and ACCD 1.6.201 Outcome Measures.

B. Screening/Eligibility

CONTRACTOR must follow ACCD 4.1.100 Screenings for Incarcerated Adult Offenders.

C. Programming and Curriculum (Specific to RFP or Previous Contracts)

1. CONTRACTOR must follow ACCD 5.1.300 Treatment Program Structure.

2. CP&R

   CONTRACTOR must follow ACCD 5.3.100 CP&R.

3. Criminal Thinking Errors

   CONTRACTOR must follow ACCD 5.3.200 Criminal Thinking Errors (CTE).

4. Anger Management

   CONTRACTOR must follow ACCD 5.3.300 Anger Management.

5. Chemical Dependency Programming

   CONTRACTOR must follow ACCD 5.4.100 Chemical Dependency.

6. Victim Services

   CONTRACTOR must follow ACCD 1.8.100 Victim Services, ACCD 1.8.101 Victim-Offender Dialogue, ACCD 1.8.200 Victim Impact Panels, and ACCD 5.3.400 Victimology.

7. KNIGHTS

   Not Applicable.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

8. Transitional Living Program (TLP)

   Not Applicable.

9. Enhanced Supervision Program (ESP)

   Not Applicable.

10. WATCh related programs

    Not Applicable.

11. Booter Aftercare

    Not Applicable.

12. Sanction Programs

    Not Applicable.

13. Extended Treatment Program (ETP)

    Not Applicable.

14. Culinary Arts Program (CAP)

    Not Applicable.

15. ADT Probation Sanction Program

    Not Applicable.

16. Sex Offender Placement

    Not Applicable.

3. Offender Management

A. Offender reports

CONTRACTOR must follow ACCD 1.6.300 Contractor Reports.

B. Offender fees/fines/R&B

CONTRACTOR must follow ACCD 1.2.700 Offender Money Management.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

C. Length of Stay (LOSs)

CONTRACTOR must follow ACCD 5.1.102 Length of Stays.

D. Offender Misconduct & Removal from Facility

CONTRACTOR must follow ACCD 3.4.100 Offender Discipline and ACCD 3.4.101 Disciplinary Codes.

1. Detention

CONTRACTOR must follow ACCD 3.4.102 Offender Removal and Detention. CONTRACTOR will follow ACCD 5.1.104 Warrants for Offenders in ACCD Programs/Facilities.

2. Unlawful Offender Behavior

CONTRACTOR shall report allegations of criminal conduct of offenders to local law enforcement officials and DEPARTMENT. CONTRACTOR shall cooperate with any administrative or criminal investigation regarding an offender. In accordance with P&P 40-2, Offender Informants, under no circumstances may an offender be permitted to act as an operative/informant (i.e. actively engaging in "controlled enforcement" activities that would ordinarily be considered a violation of the law) for law enforcement officials.

E. Escape

CONTRACTOR must follow ACCD 3.2.100 Escape.

F. Transportation/Travel/Driving Privileges

CONTRACTOR must follow ACCD 5.1.103 Offender Travel.

G. Administrative Transfer/Overrides

CONTRACTOR must follow ACCD 4.6.200 Administrative Transfers/Overrides.

H. Security/Counts

1. CONTRACTOR must follow :

a. ACCD 3.1.800 Use of Force and Restraints.
b. ACCD 3.1.2100 Offender Counts and Supervision.
c. ACCD 3.1.1100 Offender Movement Control.
d. ACCD 3.1.1300 Key Control and ACCD 3.1.1400 Tool Control.
e. ACCD 3.1.1700 Searches and Contraband Control.
f. ACCD 3.1.500 Entrance Procedures.
g. ACCD 3.1.300 Logs and Record-Keeping Systems.

DocuSign Envelope ID: D5FC48CD-CA10-468F-83E3-805A8113BE7B

I. Drug/Alcohol Testing/UAs

CONTRACTOR must follow ACCD 3.1.2000 Offender Drug and Alcohol Testing Program.

J. Healthcare

CONTRACTOR must follow ACCD 4.5.200 Healthcare Responsibilities, ACCD 4.5.201 Urgent and Emergent Pre-Authorization Process, ACCD 4.5.202 Inmate Worker Healthcare, ACCD 4.5.1000 Level of Therapeutic Care, ACCD 4.5.1500 Offender Health Care Access, ACCD 4.5.1700 Offender Sick Call and ACCD 4.5.2000 Emergency Medical Services.

K. Offender Rights

1. Religion

CONTRACTOR must follow ACCD 5.6.100 Religion.

2. Grievances

CONTRACTOR must follow ACCD 3.3.300 Grievances.

3. Property/Clothing

CONTRACTOR must follow ACCD 4.1.300 Property.

4. Canteen

CONTRACTOR must follow ACCD 3.3.500 Canteen.

5. Legal Assistance

CONTRACTOR must follow ACCD 3.3.200 Legal Assistance.

6. Telephone

CONTRACTOR must follow ACCD 3.3.700 Telephone.

7. Visitation

CONTRACTOR must follow ACCD 3.3.800 Visitation.

4. Facility Management

A. Facility Administration

Nexus is located in Lewistown, Montana. The physical address of the Nexus is: 111 Skyline Drive, Lewistown, Montana 59457. The Nexus program will house up to 82 Methamphetamine & related drug treatment offenders.

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1. Management

   CONTRACTOR must follow ACCD 2.1.100 Facility Management.

2. Conditions

   CONTRACTOR must follow ACCD 2.1.200 Facility Conditions and Maintenance.

3. Inmate Worker Position

   CONTRACTOR must follow ACCD 5.1.101 Inmate Workers.

4. Laundry

   Laundry services shall be the responsibility of CONTRACTOR.

B. Food Service

CONTRACTOR must follow ACCD 4.3.100 Food Services and ACCD 4.3.101 Cook/Chill.

C. Staffing/Certification/Training

To promote public safety and offender accountability, staffing must be adequate to meet safety and Program needs and shall be established in agreement with MDOC and in accordance with the following policies and procedures:

1. Staff Recruitment, Selection, and Licensure/Certification.

   CONTRACTOR must follow ACCD 1.3.400 Staff Recruitment, Selection, and Licensure/Certification.

2. Staffing Plans/Patterns

   CONTRACTOR must follow ACCD 1.3.401 Staffing Plans/Patterns.

3. Staff Training

   CONTRACTOR must follow ACCD 1.4.100 Staff Training.

4. Background Staff Investigations

   CONTRACTOR must follow ACCD 1.3.402 Background Investigations.

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5. SIGNATURES

DEPARTMENT

Pam Bunke, Administrator
Adult Community Corrections Division

11-21-13
Date

CONTRACTOR

Mike Thatcher, Chief Executive Officer
Community, Counseling, and Correctional Services Inc.

12/10/13
Date

Reviewed for Legal Content by:

Legal Counsel
Department of Corrections

11/21/13
Date

Approved for Montana Facility Finance Authority by:

Executive Director

12-5-13
Date

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TABLE OF CONTENTS

1. Standard Contract Terms **1**
A. Parties 1
B. Time of Performance 1
C. Liaisons and Notice 2
D. Access to Records – Offender Records/Files/OMIS access 2
E. Access to Facility 2
F. Emergency Preparedness 3
G. Compensation/Billing 4
H. Agency Assistance 7
I. Intellectual Property 8
J. Compliance with Laws 8
K. Fiscal Management/Reporting 10
L. Hold Harmless and Indemnification 10
M. Insurance 11
N. Public Information 12
O. Assignment/Transfer/Subcontractors 12
P. Amendments/Changes 12
Q. Contract Termination 13
R. Choice of Law and Venue 15
S. Licensure 15
T. Integration 15
U. Severability 16
V. Performance Security/Bond 16
W. Liquidated Damages 16
X. Policy and Procedures Changes and Reference List 16
Y. Miscellaneous Matters 16
Z. Completed Contract 17
AA. Alternate Dispute Resolution 17
2. Program Requirements and Design **18**
A. Performance Measures 18
B. Screening/Eligibility 18
C. Programming and Curriculum (Specific to RFP or Previous Contracts) 18
3. Offender Management **19**
A. Offender reports 19
B. Offender fees/fines/R&B 19
C. Length of Stay (LOSs) 20
D. Offender Misconduct & Removal from Facility 20
E. Escape 20
F. Transportation/Travel/Driving Privileges 20
G. Administrative Transfer/Overrides 20
H. Security/Counts 20
I. Drug/Alcohol Testing/UAs 21
J. Healthcare 21
K. Offender Rights 21
4. Facility Management **21**
A. Facility Administration 21
B. Food Service 22
C. Staffing/Certification/Training 22
5. SIGNATURES **23**