

**CONTRACT AMENDMENT NO. 2
WATCH WEST SERVICES – WARM SPRINGS
COMMUNITY, COUNSELING, AND CORRECTIONAL SERVICES, INC
CONTRACT NO. COR20-0370K**

This CONTRACT AMENDMENT No. 2 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 St., Butte, 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 Effective Date and Duration, parties mutually agree to change the termination date to 2/28/2023 based upon contract negotiations for the Dr. X Facility Request For Proposal (RFP). **(Deleted language is interlined and followed by new language which is underlined)**

The Contract's initial term is 7/1/2020 and terminates ~~on 12/31/2022~~ 2/28/2023. In no event is this Contract binding on State unless the State's authorized representative has signed it. The legal counsel signature approving legal content of the Contract does not constitute an authorized signature.

- 2) In accordance with Section 4, of the above-referenced contract, entitled Compensation/Payment, Subsection 4.1.1, entitled Total Contract Amount, parties mutually agree to the addition of the following language to reflect a one-time inflation payment in fiscal year 2023. **(New language is underlined)**.

4.1.1 Total Contract Amount.

For State Fiscal Year **2022 (July 1, 2021 – June 30, 2022)** the contract maximum value is **\$1,945,082** (one million nine hundred forty-five thousand eighty-two and 00/100 dollars). For State Fiscal Year **2023 (July 1, 2022 – June 30, 2023)** the contract maximum value is **\$1,964,595** (one million nine hundred sixty-four thousand five hundred ninety-five and 00/100 dollars). The contract maximum amounts include all compensation noted in this contract. The annual contract maximum will be pro-rated (annualized) depending on the end date of this contract as referenced in Section 1. Effective Date and Duration.

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 **\$15,596.55** (fifteen thousand five hundred ninety-six and 55/100 dollars). This payment will not be counted towards the contract maximum amount.

No changes made to 4.1.2 through 4.5.

- 3) In accordance with Section 21, of the above-referenced contract, entitled Liaisons and Service of Notices, parties mutually agree to replace State's Liaison in subsection 21.1 and State's Contract Manager in subsection 21.2 as shown below:

CURRENT:

Sue Chvilicek is State's Liaison
5 S. Last Chance Gulch
Helena, MT 59620-1301

NEW:

Madisen Lindquist is State's Liaison
5 S. Last Chance Gulch
Helena, MT 59620-1301

(406) 444-4902
Sue.Chvilicek@mt.gov

(406) 444-4906
Madisen.Lindquist@mt.gov

CURRENT:

Pat Schlauch is State's Contract Manager
5 S. Last Chance Gulch
Helena, MT 59620-1301
(406) 444-4939
pschlauch@mt.gov


NEW:


Carleen Green is State's Contract Manager
5 S. Last Chance Gulch
Helena, MT 59620-0101
(406) 444-4939
Carleen.Green@mt.gov

Except as modified above, all other terms and conditions of Contract No. **COR20-0370K, including Amendment #1**, remain unchanged.


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

CCCS, Inc
471 East Mercury St.
Butte, MT 59701


DocuSigned by:

81BB8EFC95846B... 11/7/2022
Megan Coy, Bureau Chief (Date)
Community Corrections Facilities and Programs
Bureau

DocuSigned by:

887ECE8E425C4D2... 11/3/2022
Mike Thatcher, CEO (Date)

Approved as to Form:

DocuSigned by:

D31066F651454E1... 11/3/2022
Nolan Harris, Contracts Officer (Date)
State Procurement Bureau
Department of Administration

Approved as to Legal Content:

DocuSigned by:

41E015492D274F4... 11/3/2022
Molenda McCarty, Legal Counsel (Date)
Legal Services Bureau

**WATCH WEST SERVICES – WARM SPRINGS
CONTRACT AMENDMENT NO. 1
CONTRACT NO: COR20-0370K**

This CONTRACT AMENDMENT No. 1 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 St., Butte, 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 or MDOC”, in the opening paragraph and all references in the original contract.

- 1) In accordance with Section 1, of the above referenced contract, entitled Effective Date and Duration, parties mutually agree to the addition of an expiration date in the Contract. **(Deleted language is interlined and followed by new language which is underlined)**

The Contract’s initial term is 7/1/2020 and terminates on 12/31/2022. In no event is this Contract binding on State unless the State’s authorized representative has signed it. The legal counsel signature approving legal content of the Contract does not constitute an authorized signature.

- 2) In accordance with Section 4, of the above referenced contract, entitled Consideration/Payment, parties mutually agree to changes in subsection 4.1.1 Total Contract Amount and 4.1.2 Offender Per Diem Rates to reflect rate increases for FY 2022 and FY 2023. **(Deleted language is interlined and followed by new language which is underlined)**

4.1 Compensation:

4.1.1 Total Contract Amount.

~~Contract Maximum reimbursement shall not exceed \$1,925,864. The contract maximum amount includes all compensation noted in this contract. The contract maximum is based on an annual period between July 1, 2020 thru June 30, 2021. The annual contract maximum will be pro-rated (annualized) depending on the end date of this contract as referenced in Section 1. EFFECTIVE DATE AND DURATION.~~

4.1.1 Total Contract Amount.

For State Fiscal Year 2022 (July 1, 2021 – June 30, 2022) the contract maximum value is \$1,945,082 (one million nine hundred forty-five thousand eighty-two and 00/100 dollars). For State Fiscal Year 2023 (July 1, 2022 – June 30, 2023) the contract maximum value is \$1,964,595 (one million nine hundred sixty-four thousand five hundred ninety-five and 00/100 dollars). The contract maximum amounts include all compensation noted in this contract. The annual contract maximum will be pro-rated (annualized) depending on the end date of this contract as referenced in Section 1. Effective Date and Duration.

4.1.2 Offender Per Diem Rates.

4.1.2.1 Warm Springs/WATCh West: ~~Department will pay Contractor a per diem rate of~~

~~**\$65.14 (sixty-five and 14/100 dollars)** per offender, per day – **not to exceed contract maximum in section 4.1.1 Total Contract Amount (inclusive of two (2) Inmate Workers)** at a per diem rate of **\$65.14** not to exceed **\$47,552**). WATCH West's capacity at the Dr. Xanthopoulos facility is eighty one (81) Felony DUI beds **(inclusive of two (2) Inmate Workers)**, with maximum compensation calculated at an Average Daily Population of **eighty-one (81)** beds for the contract year.~~

~~Contractor shall not exceed the capacity level for the facility by more than five (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 based on population needs, or other need identified by the Department.~~

4.1.2.1 Warm Springs/WATCH West: For State Fiscal Year 2022 (July 1, 2021 – June 30, 2022), State will pay Contractor a per diem rate of **\$65.79 (sixty-five and 79/100 dollars)** per offender, per day - **not to exceed contract maximum in section 4.1.1 Total Contract Amount (inclusive of two (2) Inmate Workers)** at a per diem rate of **\$65.79** not to exceed **\$48,027**. For State Fiscal Year 2023 (July 1, 2022 – June 30, 2023), State will pay Contractor a per diem rate of **\$66.45 (sixty-six and 45/100 dollars)** per offender, per day - **not to exceed contract maximum in section 4.1.1 Total Contract Amount (inclusive of two (2) Inmate Workers)** at a per diem rate of **\$66.45** not to exceed **\$48,509**). WATCH West's capacity at the Dr. Xanthopoulos facility is eighty-one (81) Felony DUI beds **(inclusive of two (2) Inmate Workers)**, with maximum compensation calculated at an Average Daily Population of **eighty-one (81)** beds for the contract year.

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


There are no changes to sections 4.2 through 4.5.

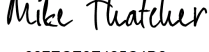
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Except as modified above, all other terms and conditions of Contract No. COR20-0370K, remain unchanged.


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

CCCS, Inc.
471 East Mercury St.
Butte, MT 59701


DocuSigned by:

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7/8/2022
Megan Coy, Bureau Chief
Community Corrections Facilities
and Programs Bureau
(Date)

DocuSigned by:

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7/8/2022
Mike Thatcher, CEO
(Date)

Approved as to Form:

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Nolan Harris, Contracts Officer
State Procurement Bureau
Department of Administration
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Approved as to Legal Content:

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41E915492B274F4...
7/8/2022
Molenda McCarty, Legal Counsel
Legal Services Bureau
Department of Corrections
(Date)

**WATCH WEST SERVICES - WARM SPRINGS
CONTRACT # COR20-0370K**

THIS CONTRACT is entered into by and between the State of Montana, **Montana Department of Corrections** (Department or MDOC), whose address and phone number are P.O. Box 201301, 5 S. Last Chance Gulch, Helena, MT 59601, (406) 444-3930 and **Community, Counseling, and Correctional Services, Inc.**, (Contractor), whose address and phone number are 471 East Mercury Street, Butte MT 59701, (406) 782-0417.

1. EFFECTIVE DATE AND DURATION

The Contract's initial term is 7/1/2020 and terminates (*subject to Section 23 of this contract entitled TRANSITION ASSISTANCE*) upon execution of a new contract between MDOC and the successful offeror under Request for proposal being issued unless terminated earlier as provided in this Contract. In no event is this Contract binding on the Department unless the Department's authorized representative has signed it. The legal counsel signature approving legal content of the Contract does not constitute an authorized signature.

2. SERVICES

Contractor will operate and manage a residential Substance Use Disorder (SUD) treatment program for adult offenders under MDOC jurisdiction. Specific program is a 180-day statutorily mandated treatment for adult male offenders convicted of Felony DUI.

2.1 Program Requirements and Design. Contractor must follow the following MDOC operational requirements and procedures.

2.1.1 Performance Measures. Statistical Reports and Outcome Measures: Contractor shall track outcome measures for determining "Offender Return Rate" or "Offender Recidivism Rate" by tracking and reporting to the Department by following Programs and Facilities Bureau (PFB) procedure 6.2.409, Statistical and Contractor Reports.

2.1.2 Screening/Eligibility. Contractor must follow PPD 4.1.100 Screenings for Adult Offender Placement.

2.1.3 Programming and Curriculum.

- a) Contractor must follow PFB 6.2.407 Program Structures.
- b) Contractor must follow PFB 6.2.459 Treatment and Programming for Adult Offenders.
- c) WATCH related programs: Contractor must follow:
 - i. ACCD 5.4.301 KNIGHTS,
 - ii. ACCD 5.4.303 WATCH Revocation Program,
 - iii. ACCD 5.4.304 WATCH Repeater Program, and
 - iv. ACCD 5.4.305 WATCH Aftercare Program.
- d) Evidence Based Practices (EBP)
 - i. 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 by MDOC to ensure fidelity to delivery standards.
 - ii. All programming and treatment shall be delivered by appropriately trained personnel as required by delivery standards.

- iii. 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.
- e) Correctional Program Checklist (CPC) Evaluation Response
 - i. Contractor will submit a written report to the Facilities Contract Manager by September 1, 2020, outlining Contractor's plan for program changes to meet CPC evaluation recommendations noted in the program's Final CPC Report (dated November 25, 2019).
 - ii. MDOC will review the plan submitted and either approve the plan or deny approval and provide the reasons for denial and a deadline for Contractor's submission of a revised plan correcting the deficiencies.
 - iii. Contractor will cooperate with MDOC's monitoring of plan progress.

2.2 Offender Management. Contractor must follow the following requirements and MDOC Procedures.

2.2.1 Offender Reports. Contractor must follow PFB 6.2.409 Statistical and Contractor Reports.

2.2.2 Offender Fees/Fines/R&B. Contractor must follow PFB 6.2.407 Program Structures and PFB 6.2.437 Lengths of Stay.

2.2.3 Offender Misconduct and Removal from Facility. Contractor must follow PFB 6.2.424 Disciplinary Process in Contract Facilities.

- a) Detention: Contractor must follow PPD 6.4.205 Report of Violation of Probation or Parole. Contractor will follow PPD 6.4.102 Offender Arrest/Pick Up and Hold/Release.
- b) 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 PPD 3.1.1901 RD Confidential 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.

2.2.4 Escape. Contractor must follow PFB 6.2.422 **RD** Facility Escapes.

2.2.5 Offender Travel. Contractor must follow PFB 6.2.433 Facility Offender Travel.

2.2.6 Administrative Transfer/Overrides. Contractor must follow PFB 6.1.202 Administrative Transfers.

2.2.7 Security/Counts. Contractor must follow:

- c) ACCD 3.1.800 Use of Force.
- d) ACCD 3.1.2100 Offender Counts and Supervision.
- e) ACCD 3.1.1100 Offender Movement Control.
- f) ACCD 3.1.1300 Key Control.
- g) ACCD 3.1.1400 Tool Control.
- h) ACCD 3.1.1700 Searches and Contraband Control.
- i) PFB 6.2.426 Entrance and Visitation Requirements.
- j) PPD 3.1.300 Logs and Record-Keeping Systems.

2.2.8 Drug/Alcohol Testing/UAs. Contractor must follow PFB 6.2.432 Facility Offender Substance Use Testing.

2.2.9 Healthcare. Contractor must follow:

- a) PPD 4.5.200 Health Care Responsibilities;
- b) ACCD 4.5.300 Medical Autonomy;
- c) ACCD 4.5.400 Health Care Credentialing;
- d) ACCD 4.5.1000 Level of Therapeutic Care;
- e) ACCD 4.5.1100 Infection Control Program;
- f) ACCD 4.5.1400 Alt-Secure Offender Intake Health Screenings;
- g) PPD 4.5.1500 Offender Health Care Access;
- h) PPD 4.5.1600 Offender Non-Emergency Health Requests;
- i) ACCD 4.5.1700 Offender Sick Call,
- j) ACCD 4.5.1900 Nursing Assessment Protocols;
- k) PPD 4.5.2000 Emergency Medical Services;
- l) PPD 4.5.2500 Pharmaceuticals; and
- m) PPD 5.1.101 Inmate Workers. (amendment pending)

2.2.10 Offender Rights.

- a) Religion: Contractor must follow ACCD 5.6.100 Religion.
- b) Grievances: Contractor must follow PPD 3.3.300 Offender Grievance Program.
- c) Property/Clothing: Contractor must follow PFB 6.2.421 Offender Personal Property.
- d) Canteen: Contractor must follow PFB 6.2.434 Canteen.
- e) Legal Assistance: Contractor must follow ACCD 3.3.200 Legal Assistance.
- f) Telephone: Contractor must follow ACCD 3.3.700 Telephones.
- g) Visitation: Contractor must follow PFB 6.2.426 Entrance and Visitation Requirements.

2.3. Facility Management.

2.3.1 Facility Administration. WATCH West is located at 725 Orofino Way, Warm Springs, Montana 59756. The Dr, Xanthopoulos Building will house up to 81 male 4th or subsequent Felony DUI offenders. The WATCH West Program shares the Dr. Xanthopoulos building with an 86 male Drug Treatment program. Contractor acknowledges that the Facility is located on property owned by another State agency (Department of Public Health and Human Services (DPHHS)) and agrees to abide by all terms and conditions of the Inter-Departmental agreement, as applicable to Contractor's operations (Reference Appendix A).

- a) Conditions: Contractor must follow ACCD 2.1.200 Facility Conditions and Maintenance.
- b) Inmate Worker Position: Contractor must follow PPD 5.1.101 Inmate Workers. (amendment pending)
- c) Laundry: Laundry services shall be the responsibility of Contractor.
- d) Management: Contractor must follow ACCD 2.1.100 Facility Management

2.3.2 Food Service. Contractor must follow PFB 6.2.429 Food Services. Cook chill shall be provided for at WATCH West.

2.3.3 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:

- a) Staff Recruitment, Selection, and Licensure/Certification: Contractor must follow PFB 6.2.406 Staffing Requirements and Training.
- b) Staffing Plans/Patterns: Contractor must follow PFB 6.2.406 Staff Requirements and Training.
- c) Staff Training: Contractor must follow PFB 6.2.406 Staff Requirements and Training.
- d) Background Staff Investigations: Contractor must follow PFB 6.2.402 Background Checks.

2.3.4 Furnishing and Equipment. Contractor shall use its own furnishings and equipment in providing the services set forth in the Contract. However, the parties recognize that these contracted services are being provided to Department within a Department owned facility.

2.4 Offender Records/Files/OMIS Access. Contractor must follow PFB 6.2.408 PFB Offender Case Records Management. Contractor will follow PFB 6.1.205 OMIS-Provider Access and Use.

Contractor agrees to provide offender information to the Department through the Offender Management Information System (OMIS) by following PFB 6.1.205 OMIS-Provider Access and Use. The Department will be responsible for the training and procedural guidelines of information in this procedure that must be entered into the system

2.5 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.

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, Contractor's 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.

2.6 Emergency Preparedness. Contractor must follow DOC 3.2.1 Emergency Management, DOC 3.2.1A Department Emergency Operations Plan, and PFB 6.2.422 RD Facility 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.

2.6.1 Contingency Plan. Contractor must have a written Contingency Plan approved by Department that addresses the following: 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.

2.6.2 Work Stoppages. 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 Facilities Contract Manager or designee once it becomes

apparent that the WATCh program may become or, actually becomes, subject to a sick out, strike, or work stoppage.

2.6.3 Use of Force. Use of force by Contractor employees shall be consistent with MDOC Policies, 3.1.8 Use of Force and Restraints, ACCD 3.1.800 Use of Force, MDOC 3.1.17 Searches and Contraband Control, and ACCD 3.1.1700 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 WATCh Program will have appropriate storage for firearms, etc., that may be brought on-site by local law enforcement personnel or transport officials.

2.6.4 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.

2.7 Fiscal Management/Reporting.

2.7.1 Annual Reports Contractor must have an independent financial audit conducted annually, at its expense, and submit these to the Facilities Contract Manager no later than December 31st of each calendar year. In addition, Contractor will provide Department, for review, the Contractor's quarterly (unaudited) financial statements.

2.7.2 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 Contract.

2.8 Policy and Procedures Changes and Reference List. Incorporated herein is the Department's 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 Procedure 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 1.1.200 Procedure Management System.

2.9 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.

3. WARRANTIES

System Security. The Contractor acknowledges responsibility for loss or unauthorized acquisition of personal information it holds such as social security numbers, credit card numbers, financial account information, or other information that uniquely identifies an individual and may be of a sensitive nature in accordance with §2-6-1501, MCA through §2-6-1503, MCA. In absence of insurance coverage specific to this type of coverage, Contractor assumes personal liability for any such information breaches.

4. CONSIDERATION/PAYMENT

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 below. Department shall compensate Contractor for successful delivery of services provided in the following manner:

4.1 Compensation:

4.1.1 Total Contract Amount. Contract Maximum reimbursement shall not exceed **\$1,925,864**. The contract maximum amount includes all compensation noted in this contract. The contract maximum is based on an annual period between July 1, 2020 thru June 30, 2021. The annual contract maximum will be pro-rated (annualized) depending on the end date of this contract as referenced in Section 1. EFFECTIVE DATE AND DURATION.

4.1.2 Offender Per Diem Rates.

4.1.2.1 Warm Springs/WATCh West: Department will pay Contractor a per diem rate of **\$65.14 (sixty-five and 14/100 dollars)** per offender, per day - **not to exceed contract maximum in section 4.1.1 Total Contract Amount (inclusive of two (2) Inmate Workers** at a per diem rate of **\$65.14 not to exceed \$47,552)**. WATCh West's capacity at the Dr. Xanthopoulos facility is eighty-one (81) Felony DUI beds (**inclusive of two (2) Inmate Workers**), with maximum compensation calculated at an Average Daily Population of **eighty-one (81) beds** for the contract year.

Contractor shall not exceed the capacity level for the facility by more than five (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 based on population needs, or other need identified by the Department.

4.1.3 Other Per Diem (Sanction Beds and Jail Stays). 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, jail facilities, and who will be returning to the treatment center they were sanctioned from. Department will not compensate Contractor for sanctions or administrative transfers lasting beyond 30 days unless approved in writing by the Department.

Department shall reimburse Contractor for expenses when medical hospitalization is required for an offender more than 30 miles away from the facility. Department will pay for staff coverage at a rate of no more than \$15 per hour and per diem for mileage and meals at the state-specified rates. Department will reimburse Contractor for actual costs as provided by the Contractor.

4.1.4 Position Compensation (Nurse, Mental Health). Contractor will employ one (1) FTE Mental Health Professional at the Warm Springs/WATCh West program. The position is included in the per diem/contract maximums identified above.

4.1.5 Stays Beyond 180-Days. Department shall not reimburse Contractor for any offender whose length of stay extends beyond 180 days unless specifically authorized and approved in writing by the Facilities Contract Manager or designee, prior to the expiration of the 180-day period.

4.2 Billing/Payment. 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 MDOC ID number (Offender#) participating in the WATCh Program, the date of Program entry, and date of release, if applicable.

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.

4.2.1 Guaranteed Payment. Department will guarantee payment for a minimum of fifty (50) offenders per day, per month at the Warm Springs facility, regardless of the actual number of offenders in the facility.

4.2.2 Minor Maintenance and Utility Costs. Contractor is responsible for facility minor maintenance and utility costs as outlined in ACCD 2.1.200 Facility Conditions and Maintenance. Contractor shall invoice Department for a portion of utility costs in accordance

with the above referenced policy on a monthly basis.

4.3 Withholding of Payment. 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 Contract. However, prior to withholding payment, Department shall notify Contractor, 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.

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

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

5. AGENCY ASSISTANCE

To the extent possible, Contractor shall use its own equipment in providing the goods/services set forth in Section 2. However, the parties recognize that services provided to Department may occur within the confines of a secure correctional facility necessitating the use of Department facilities and equipment including, but not limited to, access to inmate records, work space within a correctional facility, and phone service (e.g., Montana State Prison does not allow cellular or digital phones within the facility).

6. PREVAILING WAGE REQUIREMENTS

6.1 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 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. Contractor shall abide by the requirements set out in 18-2-401 through 18-2-432, MCA, and all administrative rules adopted under these statutes.

The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with 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.

6.2 Standard Prevailing Rate of Wages. In addition, unless superseded by federal law, all employees working on a public works contract must be paid prevailing wage rates in accordance with 18-2-401 through 18-2-432, MCA, and all associated administrative rules. Montana law requires that all public works contracts, as defined in 18-2-401, MCA, in which the total cost of the contract is greater than \$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.

6.3 Notice of Wages and Benefits. Furthermore, 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 18-2-423, MCA.

6.4 Wage Rates, Pay Schedule, and Records. 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis. Each contractor, subcontractor, and employer shall maintain payroll records in a manner readily capable of being certified for submission under 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 2019.

7. ACCESS AND RETENTION OF RECORDS

7.1 Access to Records. Contractor shall provide the Department, Legislative Auditor, or their authorized agents access to any records necessary to determine Contract compliance. Offender's protected health information (PHI) shall not be made accessible to Legislative Auditor Division without a HIPAA-compliant and a 42 CFR Part 2-compliant release signed by the offender. The Department may terminate this Contract under Section 17, without incurring liability, for the Contractor's refusal to allow access as required by this section. (18-1-118, MCA.)

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

8. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

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

9. HOLD HARMLESS/INDEMNIFICATION

The contractor shall protect, defend, and save the state, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, liabilities, demands, causes of action, and judgments (including the cost of defense and reasonable attorney fees) arising in favor of or asserted by third parties on account of damage to property, personal injury, or death which injury, death, or damage, arises out of services performed or omissions of services or in any way results from the negligent acts or omissions of the contractor, its agents, or subcontractors, except the sole negligence of the state.

10. REQUIRED INSURANCE

10.1 General Requirements. Contractor shall maintain for the duration of this 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.

10.2 Primary Insurance. Contractor's insurance coverage shall be primary insurance with respect to the Department, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the Department, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

10.3 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.

The Department, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor, products, and completed operations, and the premises owned, leased, occupied, or used.

10.4 Specific Requirements for Automobile Liability. Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

The State, its officers, officials, employees, and volunteers are to be covered as additional insureds for automobiles owned, leased, hired, or borrowed by the contractor.

10.5 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 this 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.

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

10.7 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 coverages has been received by the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620-1301. Contractor must notify the Department immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The Department reserves the right to require complete copies of insurance policies at all times.

10.8 Specific Requirements for Cyber/Data Information Security Insurance. The Contractor shall purchase and maintain cyber/information security insurance coverage with combined single limits for each wrongful act of \$2,000,000 per occurrence to cover the unauthorized acquisition of personal information such as social security numbers, credit card numbers, financial account information, or other information that uniquely identifies an individual and may be of a sensitive nature in accordance with §2-6-1501, MCA through §2-6-1503, MCA. If the Contractor maintains higher limits than the minimums shown above, the State requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the State. Such insurance must cover, at a minimum, privacy notification costs, credit monitoring, forensics investigations, legal fees/costs, regulatory fines and penalties, and third-party liability settlements or judgements as may be caused by any act, omission, or negligence of the Contractor's officers, agents, representatives, assigns or subcontractors. Note: If occurrence coverage is unavailable or cost-prohibitive, the State will accept 'claims made' coverage provided the following conditions are met: 1) the retroactive date must be shown, and must be before the date of the contract or the beginning of contract work; 2) insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work; and 3) if coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of three (3) years after completion of work.

11. **LICENSURE**

Contractor agrees to provide the State with copies of appropriate current licenses issued under Title 37 of the Montana Code Annotated for all persons performing services under this Contract.

12. **COMPLIANCE WITH WORKERS' COMPENSATION ACT**

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for the Department of Montana in accordance with 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are Department employees. This insurance/exemption must be valid for the entire contract term and any renewal. Upon expiration, a renewal document must be sent to the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620-1301.

13. **COMPLIANCE WITH LAWS**

13.1 Compliance with Laws. Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the 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 [P.L. 111-148, 124 Stat. 119]. Contractor will 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 1.1.17, Prison Rape Elimination Act, and ACCD 1.1.1700 PREA to include incident reporting. Contractor shall establish a zero-tolerance policy to incidents of sexual assault/rape or sexual misconduct. Any subletting or subcontracting by Contractor subjects its subcontractors to the same provisions. In accordance with 49-3-207, MCA, and 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.

13.2 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 § 4980 H (ACA) if provided by the State.

13.3 Additional Indemnification. Claims under this provision also include those arising out of or in any way connected with Contractor's breach of this Contract, including any Claims asserting that any of Contractor's employees are actually employees or common law employees of the State or any of its agencies, including but not limited to, excise taxes or penalties imposed on the State under the Code §§ 4980H, 6055 or 6056.

13.4 Reporting Requirements. Contractor, if Contractor is an applicable large employer under the ACA, further states that it shall satisfy all reporting requirements under the Code §§ 6055 and 6056 (ACA) with respect to individuals who perform services for the State.

13.5 Auditing. The State may audit Contractor's operations to ensure that the Contractor has complied with the statements made above.

14. DISABILITY ACCOMMODATIONS

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

15. 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 35-1-1026 and 35-8-1001, 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. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

16. INTELLECTUAL PROPERTY/OWNERSHIP

16.1 Mutual Use. Contractor shall make available to the Department, on a royalty-free, non-exclusive basis, all patent and other legal rights in or to inventions first conceived and reduced to practice or created in whole or in part under this Contract, if such availability is necessary for the

Department to receive the benefits of this Contract. Unless otherwise specified in a statement of work, both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use copyrightable property created under this Contract. This mutual right includes (i) all deliverables and other materials, products, modifications that Contractor has developed or prepared for the Department under this Contract; (ii) any program code, or site related program code that Contractor has created, developed, or prepared under or primarily in support of the performance of its specific obligations under this Contract; and (iii) manuals, training materials, and documentation. All information described in (i), (ii), and (iii) is collectively called the "Work Product".

16.2 Title and Ownership Rights. The Department retains title to and all ownership rights in all data and content, including but not limited to multimedia or images (graphics, audio, and video), text, and the like provided by the Department (the "Content"), but grants Contractor the right to access and use Content for the purpose of complying with its obligations under this Contract and any applicable statement of work.

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

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

16.5 Ownership of Contractor Pre-Existing Materials. Contractor retains ownership of all literary or other works of authorship (such as software programs and code, documentation, reports, and similar works), information, data, intellectual property, techniques, subroutines, algorithms, methods or related rights and derivatives that Contractor owns at the time this Contract is executed or otherwise developed or acquired independent of this Contract and employed by Contractor in connection with the services provided to the Department (the "Contractor Pre-existing Materials"). Contractor Pre-existing Materials are not Work Product. Contractor shall provide full disclosure of any Contractor Pre-Existing Materials to the Department before its use and to prove its ownership. If, however, Contractor fails to disclose to the Department such Contractor Pre-Existing Materials, Contractor shall grant the Department a nonexclusive, worldwide, paid-up license to use any Contractor Pre-Existing Materials embedded in the Work Product to the extent such Contractor Pre-Existing Materials are necessary for the Department to receive the intended benefit under this Contract. Such license shall remain in effect for so long as such Pre-Existing Materials remain embedded in the Work Product. Except as otherwise provided for in Section 16.3 (Ownership of Work Product) or as may be expressly agreed in any statement of work, Contractor shall retain title to and ownership of any hardware it provides under this Contract.

17. CONTRACT TERMINATION

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

17.2 Termination for Cause with Notice to Cure Requirement. Contractor may terminate this Contract for the Department's failure to perform any of its duties under this Contract after giving the

Department written notice of the failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

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

17.4 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.

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.

17.5 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.

17.6 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) 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;
- d) 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
- e) Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.

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

18. EVENT OF BREACH – REMEDIES

18.1 Event of Breach by Contractor. Any one or more of the following Contractor acts or omissions constitute an event of material breach under this Contract:

- products or services furnished fail to conform to any requirement;
- failure to submit any report required by this Contract;
- failure to perform any of the other terms and conditions of this Contract, including but not limited to beginning work under this contract without prior Department approval; or
- voluntary or involuntary bankruptcy or receivership.

18.2 Event of Breach by Department. The Department's failure to perform any material term or condition of this Contract constitutes an event of breach.

18.3 Actions in Event of Breach.

Upon Contractor's material breach, the Department may:

- terminate this Contract under Section 17.1 and pursue any of its remedies under this Contract, at law, or in equity; or
- treat this Contract as materially breached and pursue any of its remedies under this Contract, at law, or in equity.

Upon the Department's material breach, Contractor may:

- terminate this Contract under Section 17.2 and pursue any of its remedies under this Contract, at law, or in equity; or
- treat this Contract as materially breached and, except as the remedy is limited in this Contract, pursue any of its remedies under this Contract, at law, or in equity.

19. FORCE MAJEURE

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party

uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than five working days after the onset. If the notice is not provided within the five-day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this Contract, unless the parties mutually agree that the obligation is excused because of the condition.

20. WAIVER OF BREACH

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

21. LIAISONS AND SERVICE OF NOTICES

21.1 Contract Liaisons. All project management and coordination shall be performed by the Department's point of contact designated below. Contractor shall designate a liaison that will provide project management and coordination of Contractor's work. All work performed under this Contract must be coordinated between the Department's Liaison and Contractor's Liaison.

Sue Chvilicek is the Department's Liaison.
5 S Last Chance Gulch
Helena MT 59620-1301
Telephone: (406) 444-4902
E-mail: Sue.Chvilicek@mt.gov

Mike Thatcher is Contractor's Liaison.
471 East Mercury Street
Butte MT 59701
Telephone: (406) 782-0417
E-mail: development@cccscorp.com

21.2 Contract Manager. Department's Contract Manager identified below shall perform all Contract management duties on Department's behalf. Written notices and requests or any issues, not related to project management and coordination, regarding this Contract should be directed to Department's Contract Manager.

Pat Schlauch is Department's Contract Manager
5 S Last Chance Gulch
Helena MT 59620-1301
Telephone: (406) 444-4939
E-mail: pschlauch@mt.gov

Mike Thatcher is Contractor's Liaison.
471 East Mercury Street
Butte MT 59701
Telephone: (406) 782-0417
E-mail: development@cccscorp.com

21.3 Notifications. The Department's and Contractor's Liaisons and Contract Managers may be changed by written notice to the other party. Written notices, requests, or complaints must be directed to the Liaison and Contract Manager. Notice may be provided by email, personal service, mail, or facsimile. If notice is provided by email, personal service, or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective three business days after date of mailing.

22. MEETINGS

22.1 Technical or Contractual Problems. Contractor shall meet with the Department's personnel, or designated representatives, to resolve technical or contractual problems occurring during the Contract term or to discuss the progress made by Contractor and the Department in the performance of their respective obligations, at no additional cost to the Department. The Department may request the meetings as problems arise and will be coordinated by the Department. The Department shall provide Contractor a minimum of three full working days' notice of meeting date, time, and location. Face-to-

face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the Contract.

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

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

23. TRANSITION ASSISTANCE

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

24. CHOICE OF LAW AND VENUE

Montana law governs 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.

25. TAX EXEMPTION

The Department of Montana is exempt from Federal Excise Taxes (#81-0302402), except as otherwise provided in the federal Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119].

26. PERSONAL PROPERTY TAX

All personal property taxes will be paid by the Contractor.

27. AUTHORITY

This Contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, Chapter 5.

28. SEVERABILITY CLAUSE

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

29. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT

29.1 Contract. This Contract consists of 47 numbered pages plus any Attachments referred to within the numbered pages of the Contract provided they have been expressly incorporated herein by reference.

29.2 Entire Agreement. These documents are the entire agreement of the parties. All prior negotiations, representations, and understandings between the parties are superseded by the Contract. Any amendment or modification must be in a written agreement signed by the parties.

30. WAIVER

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

31. EXECUTION

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

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

**Community Counseling & Correctional Services
471 East Mercury Street
Butte MT 59701**

BY: Megan Coy, Bureau Chief

BY: Mike Thatcher, Chief Executive Officer

DocuSigned by:
Megan Coy
81BB6FEFC95846B...

DocuSigned by:
Mike Thatcher
887ECE8E423C4D2...

(Signature)
6/30/2020

(Signature)
6/30/2020

DATE: _____

DATE: _____

Approved as to Legal Content:

DocuSigned by:
Lorraine Schneider 6/26/2020
50C1263B257B4D4...

Legal Counsel (Date)

Approved as to Form:

DocuSigned by:
Jeni Nolin
309015052C7C416...

6/25/2020

Procurement Officer

(Date)

ATTACHMENT A

ORIGINAL

INTER-DEPARTMENTAL
**AGREEMENT FOR CO-LOCATION OF DEPARTMENT OF PUBLIC HEALTH &
HUMAN SERVICES AND DEPARTMENT OF CORRECTIONS FACILITIES**

RECITAL

The Parties to this Agreement are the Department of Public Health & Human Services, herein referenced as DPHHS, and the Department of Corrections, herein referenced as Corrections.

The purpose of this Agreement is to set forth the exclusive and mutual responsibilities of DPHHS and Corrections at the state property at Warm Springs with respect to their respective programs of services and associated properties. The state property at Warm Springs encompasses a complex of historic and currently used facilities along with adjoining undeveloped lands. It is hereinafter referred to as the Warm Springs property.

Legislative action has transferred the administration of certain parcels of the Warm Springs property along with the improvements, inclusive of buildings from DPHHS to Corrections for the purpose of providing a site for the conduct of a residential correctional program. DPHHS continues to conduct a residential mental health program at the Warm Springs property known as the Montana State Hospital, herein referenced as the Hospital.

Since DPHHS and Corrections are both executive agencies of state government this Agreement does not concern or affect the legal title to the Parcels.

DPHHS administers a program of inpatient mental health services for persons with serious mental health conditions at the Montana State Hospital. The residential correctional program administered by Corrections at the Xanthopoulos Building Site is located within the former extended campus of the Montana State Hospital and immediately adjacent to the current sites of residential and other therapeutic mental health services provided at the Montana State Hospital.

The provisions of this Agreement are to ensure the integrity, inclusive of financial, operational, safety and privacy considerations, of the programs or services administered respectively on the adjacent properties by DPHHS and Corrections.

The parcels of State property transferred to Corrections are known as the Xanthopoulos Building Site, referenced for purposes of this Agreement as Parcel A, and the Old Boiler Plant Site, referenced for purposes of this Agreement as Parcel B.
Parcels A and B are legally described as follows (see Exhibit A, Affidavit Map):

LEGAL DESCRIPTION OF PARCEL A

(Xanthopoulos Building Site)

A TRACT OF LAND LOCATED IN THE SE 1/4, SECTION 13 AND NE 1 / 4 SECTION 24, T.SN., R. 10W., P.M., M., DEER LODGE COUNTY, MONTANA, WARM SPRINGS, MONTANA; DESCRIBED AS FOLLOWS;

COMMENCING AT THE S 1/4 CORNER OF SAID SECTION 13; THENCE S.85°45'28"E., 243.69 FT., TO THE TRUE POINT OF BEGINNING OF PARCEL A; THENCE N.16°24'28"W., 443.15 FT.; THENCE N.69°36'30"E., 225.52 FT.; THENCE N.14°24'16"E., 149.25 FT.; THENCE N.80°50'20"E., 233.76 FT.; THENCE S.20°44'50n E., 515.56 FT.; THENCE S.69°15'10"W., 573.98 FT.; TO THE POINT OF BEGINNING, CONTAINING 6.277 ACRES (273,433 SF) OF LAND. ALL ACCORDING TO THIS AFFIDAVITT/CERTIFICATE OF SURVEYOR.

SUBJECT TO ANY EASEMENTS OF RECORD

LEGAL DESCRIPTION OF PARCEL B (Old Boiler Plant Site)

A TRACT OF LAND LOCATED IN THE SE 1/4, SECTION 13, T.5N., R.10W., P.M., M., DEER LODGE COUNTY, MONTANA, WARM SPRINGS, MONTANA; DESCRIBED AS FOLLOWS;

COMMENCING AT THE E1/4 CORNER OF SAID SECTION 13; THENCE S.40°17'27"W., 2625.25 FT., TO THE TRUE POINT OF BEGINNING OF PARCEL B; THENCE S.21°38'29"E., 110.18 FT.; THENCE

S.68°10'56"W., 140.89 FT.; THENCE N.21°38'29nw., 125.07 FT.; THENCE N.69°43'18"E., 48.98 FT.; THENCE N. 76°34'59nE.,

92.88 FT.; TO THE POINT OF BEGINNING, CONTAINING 0.387 ACRES (16,843 SF) OF LAND.

SUBJECT TO ANY EASEMENTS OF RECORD

Parcels A and B are collectively referred to as the "Property".

TERMS OF AGREEMENT

The DPHHS and Corrections agree as follows:

I. ASSIGNMENT OF MANAGEMENT

Corrections may contract with an entity for the management of the residential correctional program along with the property and improvements thereon related to that program.

Any contract and related agreements entered into by Corrections for the management of the residential correctional program, inclusive of the operation of the facilities located upon the property that is for the purposes provided for by this Agreement, are not subject to the prior approval of DPHHS.

II. TRANSFER, EASEMENTS, AND DEDICATIONS

Corrections, prior to the transfer, sale or lease of any or all portions of the Property, must inform DPHHS of the proposed property transaction along with any proposed easements or dedications. DPHHS must expressly approve by written agreement with Corrections any proposed property transaction, inclusive of any proposed easements and dedications, before Corrections may effectuate the transaction.

DPHHS may subject its approval to the entry of collateral agreements between itself, Corrections and the recipient of a property interest in the Property. Collateral agreements include but are not necessarily limited to those addressing rights of way and easements, access route, maintenance costs, utility costs, operation of the Old Boiler Plant, fire department costs, security, and visitors.

III. ACCESS AND SIGNAGE

Corrections staff, inclusive of its agents, and invitees, whether business related or visitors, are to use the route shown in Exhibit B for access for all purposes to the Property except as otherwise expressly agreed to by the Chief Executive Officer for the Hospital.

Corrections or its management entity must provide and maintain signage for the route to its Property. DPHHS and Corrections are to jointly design signage so as to maintain consistent sign appearance. Corrections or its management entity must manage visitation with the inmates housed on the Property by providing information to visitors concerning the location of and access route to the facilities located upon the Property, the campus speed limits, etc. DPHHS will not provide any services for visitors to inmates. Corrections must assure that its management entity assigns staff to manage any use of or access to the Property by the members of the public, inclusive of those persons who are visiting inmates, and to actively intervene with any those persons who may be disrupting the Hospital operation or threatening Hospital residents, staff, agents or visitors.

IV. MAINTENANCE AND REPAIR

The routine maintenance and minor repair of the buildings and other improvements located on the Property are to be undertaken by maintenance staff employed by DPHHS unless occurring at times or in circumstances where that is not feasible. The DPHHS maintenance staff unit is to be used flexibly as need requires. The overtime costs incurred by DPHHS for routine maintenance and minor repair activities relating to the buildings and other improvements located on the Property are to be funded by Corrections. Corrections shall be notified and approve any work which would require overtime prior to the work being performed.

Corrections and its management entity are responsible for major repairs to the Property and for repairs and routine maintenance requiring attention to which the DPHHS maintenance staff are not assigned or are not available.

DPHHS and Corrections share responsibility for the payment of the costs incurred for maintenance and minor repair of the roads used to access the Property as shown in Exhibit B. The respective amounts to be paid by each is to be 50% of the amount remaining to be paid after receipt of any payments for those costs assessed to and paid by other entities leasing or otherwise using any portion of the Warm Springs Property.

It is the joint responsibility of DPHHS and Corrections to determine the need for and method of maintenance and repair for those roads shown in Exhibit B.

V. UTILITIES

Corrections is responsible for the cost of electricity, natural gas, and water provided to be used in relation to the Property and the improvements located upon the Property. Corrections, based upon utility meter records, must reimburse DPHHS for each of these utility services at a rate proportional to the percentage of total campus utility usage over the most recent 12-month period. During the first year of co-location the costs will be prorated according to proportional usage since July 1, 2001. Corrections must reimburse DPHHS for sewer service related costs based upon the proportion of actively used building square footage on the Warm Springs property possessed by Corrections.

Corrections shall pay the costs related to the installation, operation, maintenance, and repair of utility service, inclusive of electricity, gas, water, the sewer lines and sewage treatment facilities, serving the Warm Springs property based upon the proportion of actively used building square footage on the Warm Springs property possessed by Corrections.

Corrections is responsible for the provision of heat to the Detention Facility administered by Butte-Silver Bow and located at the Warm Springs property. This includes costs for natural gas and costs associated with operation of the Old Boiler Plant located on Parcel B. Corrections and DPHHS shall review the contract with Butte-Silver Bow County (BSBC) to insure that BSBC pays for its proportional share of the heat plant. DPHHS is responsible for assuring the provision of electricity, water, and sewage service to the detention facility. DPHHS and Corrections are not responsible for the payment of the utility charges and other utility costs such as maintenance and repair costs incurred by Butte-Silver Bow.

If Corrections chooses to obtain electricity for emergency purposes from the emergency generator at the State Hospital, it is responsible for making the arrangements for the necessary assessment of the potential for connection and for the necessary electrical work and must pay the costs of those.

VI. OPERATION OF BOILER PLANT

Corrections is responsible for payment of all maintenance, repair and replacement costs associated with the operation of the Old Boiler Plant located on Parcel B.

VII. FIRE DEPARTMENT

Montana State Hospital maintains a fire department to provide protection to life and property on the Warm Springs property. Corrections must reimburse DPHHS 20% of the costs associated with the routine operation and maintenance of the fire department. Costs will be documented by DPHHS.

DPHHS and Corrections will negotiate to determine the proportion of costs for major improvements to the capabilities of the fire department that would have to be assessed upon Corrections.

VIII. FUNDING FOR STAFF

Corrections is to provide funding to DPHHS for 4.0 full time equivalents (FTE) staff to be employed by DPHHS for maintenance and boiler purposes. Those staff are to be part of a maintenance staff unit dedicated to the facilities of both departments located at the Warm Springs development.

The funding for staffing purposes is to be accomplished by budget amendment placing the funding into the budget for the State Hospital.

IX. BILLINGS FOR COSTS

DPHHS is to bill Corrections on a monthly basis for those costs of utilities, supplies/materials, et al., that are incurred by the operational activities of Corrections. DPHHS is to provide Corrections with an accounting of the specific costs incurred at the time of billing.

X. WATER RIGHTS

There are no water rights associated with the Property.

XI. SECURITY AND INMATE MANAGEMENT

No inmate may be released by Corrections from its custody on or near the Hospital campus or Warm Springs. Corrections shall provide for the release of inmates at appropriate locations away from the Warm Springs development. Corrections or its assignee shall be responsible for the transportation of inmates who are to be released.

Corrections or its assignee must maintain appropriate security fencing around the Xanthopoulos Building. Corrections or its assignee shall keep inmates within the Xanthopoulos Building or attached exercise yards unless the Departments mutually agree to their presence for specific reasons elsewhere in the Warm Springs development. Corrections or its assignee must provide adequate security whenever inmates use the exercise yards. This includes ensuring the integrity of the fences prior to letting inmates outside, checking for contraband and providing adequate supervision and perimeter security. No inmate is to be in the exercise yards without direct supervision.

Corrections and its assignee must develop plans for security, fire, disaster, emergency and escape response plans. These will be coordinated and annually updated with DPHHS.

DPHHS must maintain security staff who are responsible for providing security for Hospital patients, staff, visitors, and property.

Corrections or its assignee shall be responsible for providing its own security measures and must reimburse DPHHS for any security costs incurred by DPHHS that are directly attributable to the operation of the Corrections facilities.

XII. DEPARTMENTAL COOPERATION

Due to the special character of the programs that DPHHS and Corrections administer in proximity at the Warm Springs site, it is agreed that there must be full cooperation between the departments in relation to the operation of the facilities including consideration of the interests of patients, inmates and staff of the facilities.


XIII. LIAISON

Corrections must direct the managing entity for the residential correctional program to specify a member of its management personnel who is to be a liaison with DPHHS.

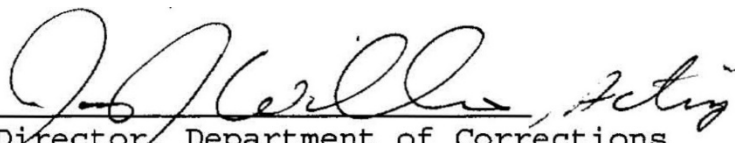
The following persons are the respective liaisons for the Departments in all matters pertaining to the responsibilities set forth in this Agreement.

Ed Amberg, the Chief Executive Officer at the Montana State Hospital, is the liaison for DPHHS. He may be contacted at 406.693.7010. Norma Jean Boles is the liaison for Corrections. She may be contacted at 406.444.4931.

11/30/01
Date



Director, Department of Public Health & Human Services



Director, Department of Corrections

ATTACHMENT B – DOC POLICIES AND PROCEDURES

1.1.17	Prison Rape Elimination Act (PREA)
1.1.200	Procedure Management System
1.1.700	Compliance Monitoring
1.1.1700	Prison Rape Elimination Act of 2003 (PREA)
6.2.434	Canteen
6.2.406	Staffing Requirements and Training
1.5.13	DNA Testing/Collection of Biological Samples
1.5.500	Case Records Management
6.1.205	OMIS-Provider Access and Use
2.1.100	Facility Management
2.1.200	Facility Conditions and Maintenance
3.1.8	Use of Force and Restraints
3.1.17	Searches and Contraband Control
3.1.300	Logs and Record-Keeping Systems
6.2.426	Entrance and Visitation Requirements
3.1.800	Use of Force and Restraints
3.1.1100	Offender Movement Control
3.1.1300	Key Control
3.1.1400	Tool Control
3.1.1700	Searches and Contraband Control
6.2.432	Facility Offender Substance Use Testing
3.1.2100	Offender Counts and Supervision
3.2.1	Emergency Management
3.3.200	Legal Assistance
3.3.300	Offender Grievance Program
3.3.700	Telephones
6.4.205	Report of Violation of Probation or Parole
4.1.100	Screenings for Adult Offender Placement
6.2.429	Food Services
4.5.200	Health Care Responsibilities
4.5.300	Medical Autonomy
4.5.400	Health Care Credentialing
4.5.1000	Level of Therapeutic Care
4.5.1100	Infection Control Program

4.5.1400	Alt Secure Offender Intake Health Screenings
4.5.1500	Offender Health Care Access
4.5.1600	Offender Non-Emergency Health Requests
4.5.1700	Offender Sick Cal
4.5.1900	Nursing Assessment Protocols
4.5.2000	Emergency Medical Services
4.5.2500	Pharmaceuticals
6.1.202	Administrative Transfers
5.1.101	Inmate Workers (amendment pending)
6.4.102	Offender Arrest/Pick Up and Hold/Release
5.6.100	Religion
6.2.402	Background Check
6.2.407	Program Structures
6.2.409	Statistical and Contractor Reports
6.2.421	Offender Personal Property
6.2.422	RD Facility Escapes
6.2.433	Facility Offender Travel
6.2.437	Lengths of Stay (LOS)

ATTACHMENT C – PREVAILING WAGES

MONTANA PREVAILING WAGE RATES FOR NONCONSTRUCTION SERVICES 2020

Effective: January 2, 2020

Steve Bullock, Governor State of Montana

Galen Hollenbaugh, Commissioner Department of Labor & Industry

To obtain copies of prevailing wage rate schedules, or for information relating to public works projects and payment of prevailing wage rates, visit ERD at www.mtwagehourbopa.com or contact:

Employment Relations Division
Montana Department of Labor and Industry P. O. Box
201503
Helena, MT 59620-1503
Phone 406-444-6543

The department welcomes questions, comments, and suggestions from the public. In addition, we'll do our best to provide information in an accessible format, upon request, in compliance with the Americans with Disabilities Act.

MONTANA PREVAILING WAGE REQUIREMENTS

The Commissioner of the Department of Labor and Industry, in accordance with Sections 18-2-401 and 18-2-402 of the Montana Code Annotated (MCA), has determined the standard prevailing rate of wages for the occupations listed in this publication.

The wages specified herein control the prevailing rate of wages for the purposes of Section 18-2-401, et seq., MCA. It is required each employer pay (as a minimum) the rate of wages, including fringe benefits, travel allowance, zone pay and per diem applicable to the district in which the work is being performed as provided in the attached wage determinations.

All Montana Prevailing Wage Rates are available on the Internet at www.mtwagehourbopa.com or by contacting the department at (406) 444-6543.

In addition, this publication provides general information concerning compliance with Montana's Prevailing Wage Law and the payment of prevailing wages. For detailed compliance information relating to public works contracts and payment of prevailing wage rates, please consult the regulations on the internet at www.mtwagehourbopa.com or contact the department at (406) 444-6543.

GALEN HOLLENBAUGH
Commissioner
Department of Labor and Industry State of Montana

TABLE OF CONTENTS

MONTANA PREVAILING WAGE REQUIREMENTS:

A. Date of Publication 2

B. Definition of Nonconstruction Services 2

C. Definition of Public Works Contract 3

D. Prevailing Wage Schedule 3

E. Rates to Use for Projects 3

F. Wage Rate Adjustments for Multiyear Contracts 3

G. Fringe Benefits 3

H. Prevailing Wage Districts 4

I. Dispatch City 4

J. Zone Pay 4

K. Computing Travel Benefits 4

L. Per Diem 5

M. Apprentices 5

N. Posting Notice of Prevailing Wages 5

O. Employment Preference 5

P. Occupations Definitions 5

Q. Nonconstruction Services Occupations 5

Wage Rates:

Maintenance of Publicly Owned Buildings and Facilities 8

Custodial or Security Services for Publicly Owned Buildings and Facilities 9

Grounds Maintenance for Publicly Owned Property 9

Operation of Public Drinking Water Supply, Waste Collection and Waste Disposal Systems 12

Law Enforcement, Including Correction and Detention Officers 13

Fire Protection 13

Public or School Transportation Driving 14

Nursing, Nurse’s Aid Services, and Medical Laboratory Technician Services 14

Material and Mail Handling 16

Food Service and Cooking 17

Motor Vehicle and Construction Equipment Repair and Servicing 17

Appliance and Office Machine Repair and Servicing 18

A. Date of Publication January 2, 2020

B. Definition of Nonconstruction Services Occupations

Section 18-2-401(9)(a)-(9)(l), MCA defines “nonconstruction services” as “...work performed by an individual, not including management, office, or clerical work, for:

- (a) the maintenance of publicly owned buildings and facilities, including public highways, roads, streets, and alleys;
- (b) custodial or security services for publicly owned buildings and facilities;
- (c) grounds maintenance for publicly owned property;
- (d) the operation of public drinking water supply, waste collection, and waste disposal systems;
- (e) law enforcement, including janitors and prison guards;
- (f) fire protection;
- (g) public or school transportation driving;
- (h) nursing, nurse’s aid services, and medical laboratory technician services;
- (i) material and mail handling;
- (j) food service and cooking;
- (k) motor vehicle and construction equipment repair and servicing; and
- (l) appliance and office machine repair and servicing.”

C. Definition of Public Works Contract

Section 18-2-401(11)(a), MCA defines "public works contract" as "...a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of \$25,000..."

D. Prevailing Wage Schedule

This publication covers only Nonconstruction Service occupations and rates. These rates will remain in effect until superseded by a more current publication. Current prevailing wage rate schedules for Heavy, Highway, and Building Construction occupations can be found on the Internet at www.mtwagehourbopa.com or by contacting the department at (406) 444-6543.

E. Rates to Use for Projects

ARM, 24.17.127(1)(c), states "The wage rates applicable to a particular public works project are those in effect at the time the bid specifications are advertised."

F. Wage Rate Adjustments for Multiyear Contracts

Section 18-2-417, MCA states:

"(1) Any public works contract that by the terms of the original contract calls for more than 30 months to fully perform must include a provision to adjust, as provided in subsection (2), the standard prevailing rate of wages to be paid to the workers performing the contract.

(2) The standard prevailing rate of wages paid to workers under a contract subject to this section must be adjusted 12 months after the date of the award of the public works contract. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract.

(3) Any increase in the standard rate of prevailing wages for workers under this section is the sole responsibility of the contractor and any subcontractors and not the contracting agency."

G. Fringe Benefits

Section 18-2-412, MCA states:

"(1) To fulfill the obligation...a contractor or subcontractor may:

(a) pay the amount of fringe benefits and the basic hourly rate of pay that is part of the standard prevailing rate of wages directly to the worker or employee in cash;

(b) make an irrevocable contribution to a trustee or a third person pursuant to a fringe benefit fund, plan, or program that meets the requirements of the Employee Retirement Income Security Act of 1974 or that is a bona fide program approved by the U. S. department of labor; or

(c) make payments using any combination of methods set forth in subsections (1)(a) and (1)(b) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits and travel allowances, applicable to the district for the particular type of work being performed.

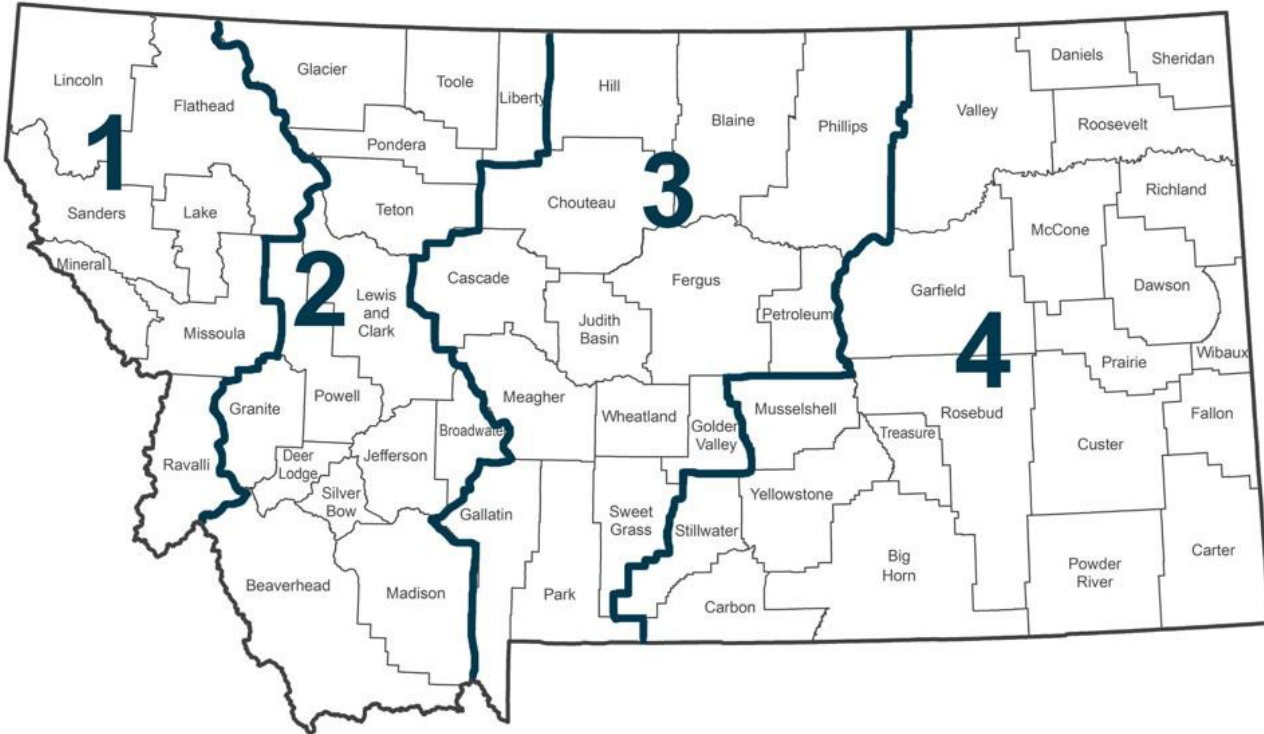
(2) The fringe benefit fund, plan, or program described in subsection (1)(b) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or bona fide programs that meet the requirements of the Employee Retirement Income Security Act of 1974 or that are approved by the U. S. department of labor."

Fringe benefits are paid for all hours worked (straight time and overtime hours). However, fringe benefits are not to be considered a part of the hourly rate of pay for calculating overtime, unless there is a collectively bargained agreement in effect that specifies otherwise.

H. Prevailing Wage Districts

Montana counties are aggregated into 4 districts for the purpose of prevailing wage. The prevailing wage districts are composed of the following counties:

Montana Prevailing Wage Districts



I. Dispatch City

ARM, 24.17.103(11), defines dispatch city as “...the courthouse in the city from the following list which is closest to the center of the job: Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, and Missoula.” A dispatch city shall be considered the point of origin only for jobs within the counties identified in that district (as shown below):

- District 1 – Kalispell and Missoula: includes Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders;
- District 2 – Butte and Helena: includes Beaverhead, Broadwater, Deer Lodge, Glacier, Granite, Jefferson, Lewis and Clark, Liberty, Madison, Pondera, Powell, Silver Bow, Teton, and Toole;
- District 3 – Bozeman and Great Falls: includes Blaine, Cascade, Chouteau, Fergus, Gallatin, Golden Valley, Hill, Judith Basin, Meagher, Park, Petroleum, Phillips, Sweet Grass, and Wheatland;
- District 4 – Billings: includes Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Musselshell, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Treasure, Valley, Wibaux, and Yellowstone.

J. Zone Pay

Zone pay is not travel pay. ARM, 24.17.103(24), defines zone pay as “...an amount added to the base pay; the combined sum then becomes the new base wage rate to be paid for all hours worked on the project. Zone pay must be determined by measuring the road miles one way over the shortest practical maintained route from the dispatch city to the center of the job.” See section I above for a list of dispatch cities.

K. Computing Travel Benefits

ARM, 24.17.103(22), states “ ‘Travel pay,’ also referred to as ‘travel allowance,’ is and must be paid for travel both to and from the job site, except those with special provisions listed under the classification. The rate is determined by measuring the road miles one direction over the shortest practical maintained route from the dispatch city or the employee’s home, whichever is closer, to the center of the job.” See section I above for a list of dispatch cities.

L. Per Diem

ARM, 24.17.103(18), states “ *‘Per diem’ typically covers costs associated with board and lodging expenses. Per diem is paid when an employee is required to work at a location outside the daily commuting distance and is required to stay at that location overnight or longer.*”

M. Apprentices

Wage rates for apprentices registered in approved federal or state apprenticeship programs are contained in those programs. Additionally, section 18-2-416(2), MCA states “*...The full amount of any applicable fringe benefits must be paid to the apprentice while the apprentice is working on the public works contract.*” Apprentices not registered in approved federal or state apprenticeship programs will be paid the appropriate journey level prevailing wage rate when working on a public works contract.

N. Posting Notice of Prevailing Wages

Section 18-2-406, MCA provides that contractors, subcontractors and employers who are “*...performing work or providing construction services under public works contracts, as provided in this part, shall post in a prominent and accessible site on the project or staging area, not later than the first day of work and continuing for the entire duration of the project, a legible statement of all wages and fringe benefits to be paid to the employees.*”

O. Employment Preference

Sections 18-2-403 and 18-2-409, MCA requires contractors to give preference to the employment of bona fide Montana residents in the performance of work on public works contracts.

P. Occupations Definitions

You can find definitions for these occupations on the following Bureau of Labor Statistics website:
http://www.bls.gov/oes/current/oes_stru.htm

Q. Nonconstruction Services Occupations

MAINTENANCE OF PUBLICLY OWNED BUILDINGS AND FACILITIES

- ELEVATOR REPAIRERS
- MAINTENANCE AND REPAIR WORKERS STATIONARY
- ENGINEERS AND BOILER OPERATORS

CUSTODIAL OR SECURITY SERVICES FOR PUBLICLY OWNED BUILDINGS AND FACILITIES ENVIRONMENTAL

- SERVICES WORKERS
- JANITORS AND CLEANERS
- PARKING ENFORCEMENT WORKERS PARKING
- LOT ATTENDANTS
- SECURITY AND FIRE ALARM SYSTEMS REPAIRERS
- SECURITY GUARDS

GROUNDS MAINTENANCE FOR PUBLICLY OWNED PROPERTY

- FALLERS
- FOREST AND CONSERVATION TECHNICIANS
- FOREST AND CONSERVATION WORKERS FOREST
- EQUIPMENT OPERATORS
- LANDSCAPING AND GROUNDSKEEPING WORKERS
- MATERIAL MOVING WORKRS, (ALL OTHER) MEDIUM
- TRUCK DRIVERS

PEST CONTROL WORKERS
PESTICIDE HANDLERS, SPRAYERS, AND APPLICATORS, (VEGETATION) TREE
TRIMMERS AND PRUNERS, (RIGHT AWAY)

OPERATION OF PUBLIC DRINKING WATER SUPPLY, WASTE COLLECTION, AND WASTE DISPOSAL
SYSTEMS

HEAVY AND TRACTOR TRAILER TRUCK DRIVERS LANDFILL
ATTENDANTS
LANDFILL EQUIPMENT OPERATORS RECYCLING
AND RECLAMATION WORKERS
REFUSE AND RECYCLABLE MATERIALS COLLECTORS
WATER AND WASTEWATER TREATMENT PLANT AND SYSTEM OPERATORS

LAW ENFORCEMENT, INCLUDING CORRECTION AND DETENTION OFFICERS CORRECTION AND DETENTION

OFFICERS
POLICE, FIRE, AND AMBULANCE DISPATCHERS
PROBATION OFFICERS AND CORRECTIONAL TREATMENT SPECIALISTS

FIRE PROTECTION

FIRE EXTINGUISHER REPAIRERS
FOREST FIREFIGHTERS

PUBLIC OR SCHOOL TRANSPORTATION DRIVING BUS DRIVERS, (SCHOOL OR SPECIAL

CLIENT)
BUS DRIVERS, (TRANSIST AND INTERCITY)
LIGHT TRUCK OR DELIVERY SERVICES DRIVERS, (INCLUDES VAN DRIVERS)

NURSING, NURSE'S AID SERVICES, AND MEDICAL LABORATORY TECHNICIAN SERVICES BREATH ALCOHOL

TECHNICIANS
CLINICAL LABORATORY TECHNICIANS AND TECHNOLOGISTS
EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS HOME
HEALTH AIDES
LICENSED PRACTICAL NURSES
NURSING ASSISTANTS
NURSE PRACTITIONERS PERSONAL
CARE AIDES PHYSICIANS ASSISTANTS
REGISTERED NURSES

MATERIAL AND MAIL HANDLING

FREIGHT, STOCK, AND MATERIAL HANDLERS

FOOD SERVICE AND COOKING

COOKS, (INSTITUTION AND CAFETERIA)

FOOD PREPARATION AND SERVING RELATED WORKERS

MOTOR VEHICLE AND CONSTRUCTION EQUIPMENT REPAIR AND SERVICING

AUTOMOTIVE MASTER MECHANICS
BUS AND TRUCK MECHANICS AND DIESEL ENGINE SPECIALISTS
CONSTRUCTION EQUIPMENT MECHANICS

APPLIANCE AND OFFICE MACHINE REPAIR AND SERVICING

APPLIANCE MECHANICS
COMPUTER, AUTOMATED TELLER, AND OFFICE MACHINE REPAIRERS
COMPUTER USER SUPPORT SPECIALISTS

WAGE RATES

MAINTENANCE OF PUBLICLY OWNED BUILDINGS AND FACILITIES

ELEVATOR REPAIRERS

	Wage	Benefit
District 1	\$54.09	\$34.12
District 2	\$54.09	\$34.12
District 3	\$54.09	\$34.12
District 4	\$54.09	\$34.12

Travel:

All Districts

0-15 mi. free zone

>15-25 mi. \$43.25/day

>25-35 mi. \$86.49/day

>35 mi. \$84.90/day or cost of receipts for hotel and meals, whichever is greater.

[↑ Back to Table of Contents](#)

MAINTENANCE AND REPAIR WORKERS

	Wage	Benefit
District 1	\$17.58	\$ 5.26
District 2	\$18.33	\$ 7.51
District 3	\$18.42	\$ 9.71
District 4	\$19.92	\$ 7.28

[↑ Back to Table of Contents](#)

STATIONARY ENGINEERS AND BOILER OPERATORS

	Wage	Benefit
District 1	\$24.90	\$ 7.41
District 2	\$19.90	\$11.38
District 3	\$18.67	\$12.35
District 4	\$18.83	\$12.31

[↑ Back to Table of Contents](#)

CUSTODIAL OR SECURITY SERVICES FOR PUBLICLY OWNED BUILDINGS AND FACILITIES

ENVIRONMENTAL SERVICES WORKERS

	Wage	Benefit
District 1	\$11.19	\$4.12
District 2	\$12.28	\$4.12
District 3	\$12.79	\$4.90

District 4	\$13.18	\$3.65
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[↑ Back to Table of Contents](#)

JANITORS AND CLEANERS

	Wage	Benefit
District 1	\$12.37	\$3.08
District 2	\$13.54	\$4.34
District 3	\$15.54	\$7.33
District 4	\$14.03	\$5.68

[↑ Back to Table of Contents](#)

PARKING ENFORCEMENT WORKERS

No Rate Established

[↑ Back to Table of Contents](#)

PARKING LOT ATTENDANTS

No Rate Established

[↑ Back to Table of Contents](#)

SECURITY AND FIRE ALARM SYSTEMS REPAIRERS

No Rate Established

[↑ Back to Table of Contents](#)

SECURITY GUARDS

	Wage	Benefit
District 1	\$10.00	\$1.00
District 2	\$10.40	\$1.49
District 3	\$10.00	\$1.49
District 4	\$13.00	\$1.49

[↑ Back to Table of Contents](#)

GROUNDS MAINTENANCE FOR PUBLICLY OWNED PROPERTY

FALLERS

No Rate Established

[↑ Back to Table of Contents](#)

FOREST AND CONSERVATION TECHNICIANS

No Rate Established

[↑ Back to Table of Contents](#)

FOREST AND CONSERVATION WORKERS

	Wage	Benefit
District 1	\$15.59	\$0.00
District 2	\$15.77	\$0.00
District 3	\$15.95	\$0.00
District 4	\$15.77	\$0.00

[↑ Back to Table of Contents](#)

FOREST EQUIPMENT OPERATORS

	Wage	Benefit
District 1	\$15.53	\$0.00
District 2	\$15.53	\$0.00
District 3	\$15.53	\$0.00
District 4	\$15.53	\$0.00

[↑ Back to Table of Contents](#)

LANDSCAPING AND GROUNDSKEEPING WORKERS

	Wage	Benefit
District 1	\$15.75	\$3.18
District 2	\$13.47	\$5.13
District 3	\$15.26	\$6.58
District 4	\$15.42	\$6.22

Duties Include:

Shovel snow from walks, driveways, or parking lots and spread salt in those areas. Grounds maintenance of cemeteries.

[↑ Back to Table of Contents](#)

MATERIAL MOVING WORKERS, (ALL OTHER)

	Wage	Benefit
District 1	\$21.57	\$ 7.48
District 2	\$22.96	\$10.88
District 3	\$18.00	\$ 7.89
District 4	\$23.83	\$ 9.80

[↑ Back to Table of Contents](#)

MEDIUM TRUCK DRIVERS

	Wage	Benefit
District 1	\$17.87	\$0.00
District 2	\$17.64	\$0.00
District 3	\$17.87	\$0.00
District 4	\$17.87	\$0.00

[↑ Back to Table of Contents](#)

PEST CONTROL WORKERS

	Wage	Benefit
District 1	\$16.81	\$0.00
District 2	\$16.81	\$0.00
District 3	\$17.18	\$0.00
District 4	\$17.18	\$0.00

[↑ Back to Table of Contents](#)

PESTICIDE HANDLERS, SPRAYERS, AND APPLICATORS, (VEGETATION)

	Wage	Benefit
District 1	\$19.50	\$8.30
District 2	\$14.95	\$5.70
District 3	\$13.67	\$4.82
District 4	\$17.93	\$6.27

[↑ Back to Table of Contents](#)

TREE TRIMMERS AND PRUNERS, (RIGHT AWAY)

	Wage	Benefit
District 1	\$19.35	\$7.46
District 2	\$17.91	\$7.46
District 3	\$22.74	\$8.97
District 4	\$26.85	\$9.23

Travel:

All Districts

0-25 mi. - free zone

>25-50 mi. - \$20.00/day

>50 mi. - \$70.00/day

[↑ Back to Table of Contents](#)

OPERATION OF PUBLIC DRINKING WATER SUPPLY, WASTE COLLECTION, AND WASTE DISPOSAL SYSTEMS

HEAVY AND TRACTOR-TRAILER TRUCK DRIVERS

	Wage	Benefit
District 1	\$22.27	\$ 7.54
District 2	\$20.49	\$ 7.53
District 3	\$18.35	\$ 7.19
District 4	\$18.35	\$ 7.19

[↑ Back to Table of Contents](#)

LANDFILL ATTENDANTS

	Wage	Benefit
District 1	\$17.76	\$9.00
District 2	\$17.22	\$8.67
District 3	\$17.22	\$8.67
District 4	\$17.22	\$8.67

[↑ Back to Table of Contents](#)

LANDFILL EQUIPMENT OPERATORS

	Wage	Benefit
District 1	\$22.10	\$7.64
District 2	\$21.42	\$8.30
District 3	\$20.12	\$8.22
District 4	\$19.40	\$7.66

[↑ Back to Table of Contents](#)

RECYCLING AND RECLAMATION WORKERS

No Rate Established

[↑ Back to Table of Contents](#)

REFUSE AND RECYCLABLE MATERIALS COLLECTORS

	Wage	Benefit
District 1	\$21.88	\$ 7.11
District 2	\$23.00	\$13.10
District 3	\$21.05	\$ 6.14
District 4	\$21.23	\$ 7.03

[↑ Back to Table of Contents](#)

WATER AND WASTEWATER TREATMENT PLANT AND SYSTEM OPERATORS

	Wage	Benefit
District 1	\$22.23	\$10.21
District 2	\$24.19	\$ 7.79
District 3	\$22.65	\$ 9.32
District 4	\$23.81	\$ 8.85

[↑ Back to Table of Contents](#)

LAW ENFORCEMENT, INCLUDING CORRECTION AND DETENTION OFFICERS

CORRECTION AND DETENTION OFFICERS

	Wage	Benefit
District 1	\$22.61	\$ 8.94
District 2	\$19.17	\$12.95
District 3	\$17.12	\$ 8.59
District 4	\$20.19	\$12.14

[↑ Back to Table of Contents](#)

POLICE, FIRE, AND AMBULANCE DISPATCHERS

	Wage	Benefit
District 1	\$20.41	\$ 7.28
District 2	\$18.91	\$10.27
District 3	\$15.73	\$ 5.73
District 4	\$22.67	\$ 7.82

[↑ Back to Table of Contents](#)

PROBATION OFFICERS AND CORRECTIONAL TREATMENT SPECIALISTS

	Wage	Benefit
District 1	\$23.30	\$13.71
District 2	\$22.39	\$13.53
District 3	\$22.74	\$13.55
District 4	\$22.22	\$13.62

[↑ Back to Table of Contents](#)

FIRE PROTECTION

FIRE EXTINGUISHER REPAIRERS

No Rate Established

[↑ Back to Table of Contents](#)

FOREST FIREFIGHTERS

	Wage	Benefit
District 1	\$17.07	\$3.40
District 2	\$12.00	\$3.87
District 3	\$25.00	\$5.70
District 4	\$24.05	\$5.35

[↑ Back to Table of Contents](#)

PUBLIC OR SCHOOL TRANSPORTATION DRIVING

BUS DRIVERS, (SCHOOL OR SPECIAL CLIENT)

	Wage	Benefit
District 1	\$15.71	\$3.57
District 2	\$15.44	\$4.05
District 3	\$17.11	\$4.83
District 4	\$18.00	\$3.64

[↑ Back to Table of Contents](#)

BUS DRIVERS, (TRANSIT AND INTERCITY)

	Wage	Benefit
District 1	\$16.65	\$7.06
District 2	\$18.17	\$5.65
District 3	\$16.96	\$6.63
District 4	\$20.66	\$7.44

[↑ Back to Table of Contents](#)

LIGHT TRUCK OR DELIVERY SERVICES DRIVERS, (INCLUDES VAN DRIVERS)

	Wage	Benefit
District 1	\$12.00	\$2.74
District 2	\$11.54	\$3.40
District 3	\$14.99	\$3.72
District 4	\$13.20	\$3.68

[↑ Back to Table of Contents](#)

NURSING, NURSE'S AID SERVICES, AND MEDICAL LABORATORY TECHNICIAN SERVICES

BREATH ALCOHOL TECHNICIANS

No Rate Established

[↑ Back to Table of Contents](#)

CLINICAL LABORATORY TECHNICAINS AND TECHNOLOGISTS

	Wage	Benefit
District 1	\$31.79	\$ 8.45
District 2	\$32.58	\$..6.96
District 3	\$29.32	\$ 6.12
District 4	\$31.03	\$ 7.84

[↑ Back to Table of Contents](#)

EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS

	Wage	Benefit
District 1	\$15.83	\$3.52
District 2	\$17.40	\$4.69
District 3	\$18.85	\$6.67
District 4	\$17.45	\$5.20

[↑ Back to Table of Contents](#)

HOME HEALTH AIDES

	Wage	Benefit
District 1	\$11.09	\$2.95
District 2	\$11.78	\$0.30
District 3	\$11.67	\$1.75
District 4	\$11.41	\$0.30

[↑ Back to Table of Contents](#)

LICENSED PRACTICAL NURSES

	Wage	Benefit
District 1	\$22.52	\$5.23
District 2	\$21.70	\$6.89
District 3	\$21.19	\$5.67
District 4	\$23.51	\$6.39

[↑ Back to Table of Contents](#)

NURSING ASSISTANTS

	Wage	Benefit
District 1	\$13.10	\$2.56
District 2	\$14.01	\$5.94
District 3	\$13.71	\$3.57
District 4	\$14.53	\$4.09

Occupations Include:

Certified Nursing Assistants, Hospital Aides, Infirmary Attendants

CCCS, Inc.

Contract # COR20-0370K

Contracting Authority: 18-4-132 MCA

Page **43** of **47**

NURSE PRACTITIONERS

	Wage	Benefit
District 1	\$50.69	\$11.68
District 2	\$48.78	\$ 8.22
District 3	\$51.46	\$ 8.14
District 4	\$55.64	\$13.80

[↑ Back to Table of Contents](#)

PERSONAL CARE AIDES

	Wage	Benefit
District 1	\$11.09	\$2.95
District 2	\$11.78	\$0.30
District 3	\$11.67	\$1.75
District 4	\$11.41	\$0.30

[↑ Back to Table of Contents](#)

PHYSICIANS ASSISTANTS

	Wage	Benefit
District 1	\$49.76	\$13.09
District 2	\$52.73	\$10.38
District 3	\$57.04	\$10.24
District 4	\$55.18	\$12.21

[↑ Back to Table of Contents](#)

REGISTERED NURSES

	Wage	Benefit
District 1	\$30.31	\$6.83
District 2	\$33.13	\$8.31
District 3	\$28.97	\$6.17
District 4	\$33.95	\$8.80

[↑ Back to Table of Contents](#)

MATERIAL AND MAIL HANDLING

FREIGHT, STOCK, AND MATERIAL HANDLERS

	Wage	Benefit
District 1	\$13.94	\$0.00
District 2	\$14.14	\$0.00
District 3	\$14.14	\$0.00
District 4	\$14.14	\$0.00

[↑ Back to Table of Contents](#)

FOOD SERVICE AND COOKING

COOKS, (INSTITUTION AND CAFETERIA)

	Wage	Benefit
District 1	\$14.08	\$3.77
District 2	\$14.35	\$4.36
District 3	\$12.93	\$4.29
District 4	\$14.73	\$4.60

[↑ Back to Table of Contents](#)

FOOD PREPARATION AND SERVING RELATED WORKERS

	Wage	Benefit
District 1	\$11.02	\$2.06
District 2	\$11.55	\$3.20
District 3	\$11.03	\$4.24
District 4	\$12.10	\$3.19

Occupations Include:

Dietary Aides, Counter Attendants, and Dining Room Attendants.

[↑ Back to Table of Contents](#)

MOTOR VEHICLE AND CONSTRUCTION EQUIPMENT REPAIR AND SERVICING

AUTOMOTIVE MASTER MECHANICS

	Wage	Benefit
District 1	\$21.42	\$2.33
District 2	\$20.64	\$4.44
District 3	\$22.68	\$4.60
District 4	\$23.94	\$4.97

[↑ Back to Table of Contents](#)

BUS AND TRUCK MECHANICS AND DIESEL ENGINE SPECIALISTS

	Wage	Benefit
District 1	\$20.29	\$2.38
District 2	\$23.99	\$5.45
District 3	\$23.60	\$5.46
District 4	\$22.63	\$4.73

[↑ Back to Table of Contents](#)

CONSTRUCTION EQUIPMENT MECHANICS

	Wage	Benefit
District 1	\$24.92	\$8.41
District 2	\$22.51	\$8.85
District 3	\$23.38	\$9.27
District 4	\$24.00	\$8.82

[↑ Back to Table of Contents](#)

APPLIANCE AND OFFICE MACHINE REPAIR AND SERVICING

APPLIANCE MECHANICS

	Wage	Benefit
District 1	\$13.91	\$0.00
District 2	\$13.91	\$0.00
District 3	\$13.91	\$0.00
District 4	\$13.91	\$0.00

[↑ Back to Table of Contents](#)

COMPUTER, AUTOMATED TELLER, AND OFFICE MACHINE REPAIRERS

No Rate Established

[↑ Back to Table of Contents](#)

COMPUTER USER SUPPORT SPECIALISTS

	Wage	Benefit
District 1	\$24.58	\$5.87
District 2	\$23.46	\$7.99
District 3	\$24.42	\$9.73
District 4	\$27.00	\$9.77

[↑ Back to Table of Contents](#)