

**CONTRACT AMENDMENT NO.: 2  
CONTRACT FOR OFFENDER TRANSPORT SERVICES FOR ADULT OFFENDERS  
CONTRACT NO: COR-2018-0093N**

This CONTRACT AMENDMENT No. 2 is to amend the above-referenced contract between the State of Montana, Department of Corrections (STATE), whose address and phone number are 5 South Last Chance Gulch, Helena, MT 59601, 406-444-4931 and Community, Counseling and Correctional Services, Inc., (CONTRACTOR), whose address and phone number are 471 E. Mercury St, Butte, MT 59701, 406-782-0417. This Contract is amended for the following purpose(s):

- 1) **In accordance with the section entitled Effective Date, Duration, and Renewal**, both parties mutually agree to extend this Contract for the period November 1, 2019, through October 31, 2020 per the terms, conditions, and prices agreed upon. This is the Second renewal, Third year of the Contract.

Except as modified above, all other terms and conditions of Contract No. **COR-2018-0093N** remain unchanged.

**STATE OF MONTANA**

**Department of Corrections  
5 South Last Chance Gulch  
Helena, MT 59601**

**Community, Counseling and Correctional  
Services, Inc.  
471 E. Mercury St  
Butte, MT 59701  
FEDERAL ID # 81-0413419**

BY: Kevin Olson Administrator  
(Name/Title)

BY: Mike Thatcher C.E.O.  
(Name/Title)

DocuSigned by:  
Kevin Olson  
0F69E730A0FA445...  
(Signature)

DocuSigned by:  
Mike Thatcher  
887ECE5E425C4B2...  
(Signature)

DATE: 10/1/2019

DATE: 9/23/2019

Approved as to Form:

DocuSigned by:  
Nicole Orta 9/23/2019  
6407350C31CE4E8...  
Procurement Officer (Date)  
State Procurement Bureau

**CONTRACT AMENDMENT NO.: 1**  
**CONTRACT FOR OFFENDER TRANSPORT SERVICES FOR ADULT OFFENDERS**  
**CONTRACT NO: COR-2018-0093N**

This CONTRACT AMENDMENT No. 1 is to amend the above-referenced contract between the State of Montana, Department of Corrections (STATE), whose address and phone number are 5 South Last Chance Gulch, Helena, MT 59601, 406-444-4931 and Community, Counseling and Correctional Services, Inc., (CONTRACTOR), whose address and phone number are 471 E. Mercury St, Butte, MT 59701, 406-782-0417. This Contract is amended for the following purpose(s):

- 1) **In accordance with the section entitled Effective Date, Duration, and Renewal**, both parties mutually agree to extend this Contract for the period November 1, 2018, through October 31, 2019 per the terms, conditions, and prices agreed upon. This is the first renewal, second year of the Contract.
  
- 2) **In accordance with the section entitled Services and/or supplies** both parties mutually agree to insert the following language:  
Contractor shall provide State the following: Contractor is required to provide offender transportation services for both youth and adult offenders under the supervision of the DOC...
  
- 3). The Pine Hills Adult Training and Treatment Program Secure Facility will be renamed as Pine Hills Correctional Facility-Secure Facility
  
- 4). **The following additional locations will be added to the contract:**
  - ⌚ Youth Detention Centers Statewide -Secure Facility
  - ⌚ 5 County Treatment and Youth Rehabilitation- Secure Facility
  - ⌚ Other youth detention centers out of StateYouth Transport services will take place only when no other transport option is available and will require prior authorization by appropriate DOC staff.
  
- 5). **In accordance with Section 3.1 Requirements, 3.1.1 Pickup and Transport Inmates**, the word "inmates" will be replaced with the word, "Offender".
  
- 6). **In accordance with Section 5. Consideration/Payment, 5.1 Payment Schedule** the word "adult" will be added in front of Offender in the first sentence and the word "Inmate" will be changed to the word, "Offender".

**The following paragraph will be inserted in section 5.1:**

In consideration of the Youth Offender Transport Services to be provided, State shall pay Contractor monthly. The Offender Transportation Services provided will be billed at a rate of \$1.55 per mile, per trip to the 5 county Treatment and Youth Rehabilitation Center (5C) in St. Anthony, ID. or any other in-state transport. Any on-call transports requiring notice of two hours or less, or transports required on weekends and holidays, will be reimbursed at a rate of \$1.85 per mile, per trip to the 5C or any other in-state transport. Out of state overnight youth transport stays beyond the 5C will be reimbursed at a rate of \$2.40 per mile, per trip. Holidays include New Year's Day, Martin Luther King Day, President's Day, Memorial Day, 4<sup>th</sup> of July, Labor Day, Columbus Day, Veteran's Day, Thanksgiving, and Christmas.

Except as modified above, all other terms and conditions of Contract No. **COR-2018-0093N** remain unchanged.

**STATE OF MONTANA**

**Department of Corrections  
5 South Last Chance Gulch  
Helena, MT 59601**

**Community, Counseling and Correctional  
Services, Inc.  
471 E. Mercury St  
Butte, MT 59701  
FEDERAL ID # 81-0413419**

BY: Kevin Olson Administrator  
(Name/Title)

BY: Mike Thatcher C.E.O.  
(Name/Title)

DocuSigned by:  
Kevin Olson  
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(Signature)

DocuSigned by:  
Mike Thatcher  
B78D019236194D6...  
(Signature)

DATE: 11/8/2018

DATE: 11/2/2018

Approved as to Legal Content:

DocuSigned by:  
Colleen Ambrose 11/2/2018  
FF888078013447...  
Legal Counsel (Date)

Approved as to Form:

DocuSigned by:  
Mede Orta 10/26/2018  
6407350C31CE4E8...  
Procurement Officer (Date)  
State Procurement Bureau

**Offender Transport Services for Adult Offenders**  
**COR-2018-0093N**

**THIS CONTRACT** is entered into by and between the State of Montana, **Department of Corrections**, (Department), whose address and phone number are **5 South Last Chance Gulch, Helena, MT 59601, (406) 444-4931** and **Community, Counseling and Correctional Services, Inc.** (Contractor), whose address and phone number are **471 E. Mercury St, Butte, MT 59701** and **(406) 782-0417**.

**1. EFFECTIVE DATE, DURATION, AND RENEWAL**

**1.1 Contract Term.** The Contract's initial term is, **upon final contract signature**, through **October 31, 2018**, unless terminated earlier as provided in this Contract. In no event is this Contract binding on Department unless Department's authorized representative has signed it. The legal counsel signature approving legal content of the Contract and the procurement officer signature approving the form of the Contract do not constitute an authorized signature.

**1.2 Contract Renewal.** Department may renew this Contract under its then-existing terms and conditions (subject to potential cost adjustments described below in section 2) in **one (1)** year intervals, or any interval that is advantageous to Department. This Contract, including any renewals, may not exceed a total of **seven (7)** years.

**2. COST ADJUSTMENTS**

**2.1 Cost Increase by Fixed Amount.** After the Contract's initial term and if Department agrees to a renewal, the parties may agree upon a cost increase of **1%**, not to exceed **5%**. Contractor shall request the increase and shall provide justification for the increase. Department is not obligated to agree upon a renewal or a cost increase.

**3. SERVICES AND/OR SUPPLIES**

Contractor shall provide Department the following: Contractor is required to provide inmate transportation services and maintain scheduled pick-ups and drop-offs from the following Department facilities:

- Ⓢ Montana State Prison (MSP) in Deer Lodge-SECURE FACILITY
- Ⓢ Montana Women's Prison (MWP) in Billings-SECURE FACILITY
- Ⓢ Crossroads Correctional Center (privately operated by CoreCivic)-SECURE FACILITY
- Ⓢ Cascade County Regional Prison in Great Falls-SECURE FACILITY
- Ⓢ Dawson County Correctional Facility in Glendive-SECURE FACILITY
- Ⓢ Missoula Assessment & Sanction Center (MASC) in Missoula- SECURE FACILITY
- Ⓢ WATCH East in Glendive-TREATMENT CENTER
- Ⓢ WATCH/CCP West in Warm Springs-TREATMENT CENTER
- Ⓢ START in Anaconda-ASSESSMENT AND SANCTION CENTER
- Ⓢ Connections Corrections in Butte- TREATMENT FACILITY
- Ⓢ Nexus-TREATMENT FACILITY
- Ⓢ Elkhorn-TREATMENT FACILITY
- Ⓢ Passages ADT and ASRC in Billings-PRERELEASE CENTER AND TREATMENT FACILITY
- Ⓢ Prerelease centers statewide-PRERELEASE FACILITIES
- Ⓢ Probation and Parole offices state-wide
- Ⓢ Riverside Adult Training and Treatment Program-SECURE FACILITY
- Ⓢ Pine Hills Adult Training and Treatment Program-SECURE FACILITY
- Ⓢ County Jails statewide-SECURE FACILITY

### **3.1 REQUIREMENTS**

**3.1.1 Pick Up and Transport Inmates.** Contractor shall pick up and transport DEPARTMENT Offenders to designated locations in Montana, as requested. All transports will be coordinated with the DEPARTMENT designee. Offenders will be picked up and dropped off at designated locations and the transport teams will meet and exchange Offenders with other law enforcement and/or correctional agencies, as appropriate.

**3.1.2 Sufficient Number of Vehicles and Personnel.** Contractor shall maintain a sufficient number of transportation vehicles necessary to accomplish the transportation requirements noted herein, but no less than two (2) transportation vans equipped with Security Cages equivalent to the current industry standard providing three (3) separate compartments for security of offenders and staff and/or standard transport vans (for offenders transferring to a lower level of security (Prerelease) or discharge and up to six (6) Contractor agents (up to three teams). Contractor will also provide an additional caged sedan for trips involving the transport of up to two (2) offenders. Vans will be equipped with video equipment to enable transport officers to monitor offenders in the vehicle. Vehicles utilized to transport offenders will be in good operating condition, with current maintenance and repair records on file and shall meet the following minimum criteria:

- A. Vans shall be designed and equipped to separate and safely secure the transportation officers from offenders.
- B. Doors and windows shall be inoperable from the inside of the offender compartment.
- C. Welded steel screens shall cover all windows of the offender compartment.
- D. Operational heater and air conditioner for entire vehicle.
- E. Visual posting of manufacturer's recommended occupancy rating.

Pickup and delivery of Offenders shall be scheduled to occur on specific days and times, as mutually agreed by the Contractor and department personnel, respectively. There shall be two (2) transport routes scheduled per day and on-call transport available within two (2) hours of notification. This may include weekend days. Contractor shall provide sufficient staff for three (3) transports simultaneously.

**3.1.3 Assume Custody of Offenders and Provide Transportation.** Contractor shall assume custody of Offenders from authorized agents of the facility and provide transportation of said Offenders from and to locations designated by Department. In assuming custody of Offenders, Contractor shall perform and maintain security and control procedures in accordance with all federal, state, and department requirements. In the event that there are no written policies or procedures, Contractor shall follow reasonable, customary operating procedures, and shall mutually agree upon a standard schedule of acceptable days/times for pick-up/drop-off of Offenders at designated locations. Upon arrival at the Offenders' destination, Contractor shall surrender custody of said Offenders to the Department, Contracted Facility or to the appropriate law enforcement agency, as designated by the Department.

**3.1.4 List of Transportation Officers.** Contractor shall provide the department with a list of all transportation officers, including name, social security number, date of birth, certification of training (e.g. security, medical), certification that no transportation officer has ever been convicted of a felony, any sex offense, violent offense, or two or more misdemeanor drug offenses. CONTRACTOR will conduct and maintain the results of a fingerprint-based criminal history check for all transportation officers. Contractor will have written policies in place and conduct quarterly checks of transportation officers' driving records and maintain a practice of quarterly random drug testing of employees that is consistent with the Montana Workforce Drug and Alcohol Testing Act, 39-2-205, MCA. Contractor will obtain an applicable release of information from their employees in order to immediately report any driving or drug violations to department Contract Liaison for review and discussion. Contractor further agrees to allow the Department to reserve the right to refuse the use of any officer under this Contract. Contractor will maintain compliance with all laws related to operation of motor vehicles for hire.

Contractor will provide a cellular telephone for each transport vehicle and provide all transport cellular telephone numbers to department.

**3.1.5 Provide Offender Meals/Restroom Stops.** Contractor will provide offenders with meals and restroom stops, as appropriate. All meals served during transport will be served to appropriately restrained offenders within the confines of the vehicle. Three (3) meals per twenty-four (24) hour period shall be required for offenders during transport. Meals from fast food type restaurants are acceptable. Contractor will transport offender property in conformance with DOC policy 4.1.3 Offender Personal Property. If medications accompany the offender, they will be placed in a lock box during transport and be given to appropriate facility staff upon arrival to the offender's destination. Contractor must provide continuous transport and emergency stops may not last longer than three (3) hours.

**3.1.6 DEPARTMENT-Approved Manifest.** Contractor shall possess a department-approved "manifest" in the transport vehicle at all times. The manifest shall be readily accessible to transport officers and shall include: the number of Offenders in the transport; each offender's name, DOC number, and physical description; a current color photo that reflects the Offender's current physical description (it may be a Polaroid photo, but should primarily be digital); the crime(s) for which the offender was convicted; and will provide the travel itinerary for each transport to the appropriate DEPARTMENT facility staff as designated by DEPARTMENT. Contractor will provide the appropriate MSP/MWP Command Post and coraccdreports@mt.gov with a travel itinerary before a prisoner transport commences.

**3.1.7 Advance Notification to Receiving Facility of Offender Transport and Arrival.** Contractor shall provide one-hour advance notice of arrival to any location scheduled for delivery or pickup services as appropriate. Contractor shall provide at least 72 hours prior notification of Offender arrival to the destination housing facility. All overnight stays during the transport must be preapproved by the Department's contract liaison. Overnight stays may be approved with offenders residing in a county jail/detention facility or a prerelease center. Notification of housing shall include the proper number of Offenders and the approximate time of arrival. At the time of arrival, the Contractor will provide staff at the facility with a list of prisoners to be housed.

**3.1.8 Notification to Department of Transport Schedule and Delays.** Contractor shall notify department personnel [electronically] 24 hours in advance of a planned transport to and/or from DEPARTMENT facilities. The notification will include the date of the transport, the names of Offenders being transported, and where they will be picked up and/or dropped off, as well as the officers who will be doing the transport. The transportation coordinator will also e-mail the notification to the appropriate department personnel when the scheduled transport is running ahead/behind schedule. Department will provide the Contractor with a list of contact names and e-mail addresses for this purpose.

**3.1.9 On-Call Transports.** Contractor shall provide one on-call transport team within two hours of department notice to Contractor. Contractor shall provide a 24/7 staffed contact telephone to department for providing notice. Department will provide contractor with the names of personnel authorized to make on-call transport requests. Contractor shall not initiate an on-call transport without authorization from one of the designated personnel. Department will provide Contractor with the necessary offender information and coordinate the pickup and delivery locations as necessary.

**3.1.10 Delivery Requirements.** Contractor shall deliver [with the Offender] to the Offender's final destination, all records, files, and medications, as required by DEPARTMENT. The Contractor will be required to utilize a DEPARTMENT provided "check-off" form to ensure absolute compliance with this requirement.

**3.1.11 Transport of Offender Property.** Contractor shall transport Offender property with each Offender. Contractor will transport Offender property in compliance with DEPARTMENT policy 4.1.3 - Offender Personal Property <http://www.cor.mt.gov/Resources/Policy/default.mcpix>.

**3.1.12 Handheld/Mobile Radios and Cell Phones.** Contractor shall provide each transport agent/vehicle with cell phones and will provide DEPARTMENT with the cell phone numbers for each transport.

**3.1.13 Transportation Officer Licensure.** Contractor shall ensure all transportation officers are appropriately licensed (i.e., Commercial Driver's License (CDL)) in Montana and other states, as applicable. No personnel shall be allowed to operate a motor vehicle unless they possess the appropriate driver's license. Contractor personnel shall be required to produce their license upon demand of any authorized DEPARTMENT employee.

**3.1.14 Personnel Training.** Contractor shall ensure all personnel used in the direct transportation of offenders have DEPARTMENT approved training. All employees shall have a law enforcement background and/or have successfully completed a training program that focuses on the proper use of restraining devices and self-defense tactics necessary to perform the duties specified herein. Training for transportation officers must include CPR, first aid, unarmed self-defense, use of restraints, non-lethal use of force, searches, transportation of offenders, and defensive driving. Contractor shall provide DEPARTMENT with documentation/proof that each transportation agent in contact with Montana Offenders has received complete training in all phases of offender transport and is properly licensed in accordance with applicable Montana and Federal requirements.

**3.1.15 Offender Transportation Policy.** Contractor shall transport Offenders in accordance with DEPARTMENT Policy 3.1.2 Facility Security Manuals <http://www.cor.mt.gov> and shall retain copies of post orders in all vehicles at all times.

**3.1.16 Number of Officers.** Contractor shall ensure that the number of officers transporting offender(s) be governed by DEPARTMENT policy 3.1.12 Offender Escort and Transport <http://www.cor.mt.gov/Resources/Policy/default.mcp>. One officer shall be of the same sex as the Offender(s) being transported. A female transportation officer must be present when transporting female Offenders. A separate and secure section shall be provided for females if male offenders are also being transported.

**3.1.17 Security Search and Inspection.** Contractor shall thoroughly search the vehicle and inspect all security features prior to boarding any offenders. Continuing checks are to be made periodically by the transportation officer while in route to the final destination. Exterior vehicle inspections shall be made during the time the transfer vehicle is stopped prior to continuing a transport. All inspections shall be recorded in a log provided and maintained by the Contractor. Logs must be submitted to the Department within five days of request and will be subject to immediate inspections by MDOC monitoring staff.

**3.1.18 Offender Escape Precautions.** Contractor shall exercise all necessary precautions to prevent the escape of Offenders in the Contractor's custody. In the event that an escape occurs, the transportation officer shall exhaust all resources immediately available to him/her in apprehending the subject and immediately notify appropriate Department personnel in compliance with DOC Policy 1.1.6, Priority Incident Reporting and Acting Director System. Contractor shall be responsible for all costs associated with the pursuit and capture of an escapee and his/her transportation back to secure custody in the State of Montana. Contractor shall develop a plan in conjunction with the department and local law enforcement for the apprehension and reporting of escapees during transport.

Once an escapee has been apprehended, Contractor will cooperate fully with instructions from Department and assist in returning the offender to appropriate custody.

**3.1.19 Seatbelts, restraints, and separation.** Contractor shall ensure that all Offenders wear seat belts during all transports.

Contractor shall ensure that offenders are restrained, as appropriate, while in custody of Contractor. Offenders transported to and from secure facilities, assessment/sanction centers/beds and treatment facilities., shall be restrained with wrist, waist, and leg restraints. Offenders transported from Nexus and Elkhorn to prerelease placement may be transported with minimal restraints.

**3.1.20 Transport Officer ID and Dress Requirements.** All transportation officers must carry an ID that indicates information including, but not limited to, the company name, employee's name, photo, etc. These IDs must be presented and/or displayed properly when requested by the holding facility prior to the release of any offender.

Contractor shall require all employees involved in transporting Offenders to dress in a professional manner. Employees shall wear a uniform bearing the company logo. Street/casual clothes (jeans, T-shirts, sandals, etc.) are not acceptable.

**3.1.21 Compliance Checks and Audits.** Contractor shall agree to regular compliance checks and audits, including an approved monitoring instrument developed in conjunction with DEPARTMENT personnel.

**3.1.22 Emergency Procedures.** In the event of an emergency during transport (i.e., sickness or accident affecting the officer or Offender or a breakdown in their method of travel), Contractor shall immediately solicit the assistance of the nearest law enforcement agency, secure the Offender(s), and contact the designated DEPARTMENT staff. Any major change of schedule or other incident that should cause undue delay in the transport schedule shall be reported by phone to Contract Liaison and the appropriate staff at the department destination or other affected facility, including the reason for delay.

## **3.2 VEHICLES**

**3.2.1 Vehicle Size and Capacity.** Contractor shall provide transport vehicles of appropriate size and capacity. Vehicles shall be properly modified and equipped to transport Offenders and appropriately ventilated (air conditioning and heat), as dictated by climate. Contractor is required to have appropriate backup transport.

**3.2.2 Vehicle Maintenance/Operation.** Contractor shall maintain and operate its vehicles (including backup and chase vehicles) and security equipment in a safe, sanitary, and fully serviceable condition.

**3.2.3 Vehicle Inspection, Repair and Maintenance Regulations.** Contractor shall inspect, repair, and maintain all transportation equipment as outlined in part 396 of the Safety Regulation of the U.S. Department of Transportation, Federal Highway Administration. Contractor will be required to provide proof of valid insurance to the Department prior to final contract award.

## **3.3 REPORTING REQUIREMENTS**

Contractor shall provide Contract Liaison with written reports of unusual incidents, emergencies, and/or controversial situations that arise during performance of services under the contract. Reports shall be submitted as soon as practical after occurrence, but not later than 24 hours after the incident. A copy must also be sent to the Offender transportation coordinator at the directly affected facility.

Contractor shall submit monthly reports of Transportation Orders and Transportation Staff Scheduling to the Contract Liaison. Reports shall include the transportation specifics (i.e., offender name/DOC#, facility pick up location and facility drop off location, total number of transport miles, etc.).

For purpose of this Section, "unusual incident, emergency, or controversial situations" include, but are not limited to: any act of violence by an Offender or other passengers; any escape or attempted escape of an Offender or any other breach of security; any excessive delay in the transportation of an Offender; any medical condition of an Offender or other passenger requiring emergency medical treatment; any mechanical failure that would normally require formal reports to the cognizant regulatory agency; any vehicular accident involving an DEPARTMENT contract transport of Offenders, and any refusal of law enforcement agencies to release an Offender to, or accept an Offender from, the Contractor.

### **3.4 Background Checks**

The Department reserves the right to require that all contractors working with State of Montana, Department of Corrections have a fingerprint-based criminal history check initiated or completed prior to employment. The contractor is wholly responsible for all costs related to background investigations.

## **4. WARRANTIES**

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

## **5. CONSIDERATION/PAYMENT**

**5.1 Payment Schedule.** In consideration of the Offender Transport Services to be provided, Department shall pay Contractor monthly. The Inmate Transportation Services provided will be billed at a flat fee of \$500.00 per trip, per team, Monday through Friday. Any On-call transports requiring notice of two hours or less, or transports required on weekends and holidays, will be reimbursed at a rate of \$600.00 per trip, per transport team. Holidays include New Year's Day, Martin Luther King Day, President's Day, Memorial Day, 4<sup>th</sup> of July, Labor Day, Columbus Day, Veteran's Day, Thanksgiving, and Christmas.

**5.2 Withholding of Payment.** In addition to its other remedies under this Contract, at law, or in equity, Department may withhold payments to Contractor if Contractor has breached this Contract. Such withholding may not be greater than, in the aggregate, **(5%)** of the total value of the subject statement of work or applicable contract.

**5.3 Payment Terms.** Unless otherwise noted in the solicitation document, Department has thirty (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 Department's electronic funds transfer payments.

**5.4 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, Department is not obligated to pay the invoice.

## **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

Because this Contract has an initial term of 12 months with optional renewals, this Contract is subject to the 3% adjustment when the Contract length becomes more than 30 months. The 3% rate increase becomes effective upon the second renewal, and the 3% is paid starting in the third year of the Contract beginning with the 25th month. The adjustment must be made and applied every 12 months for the term of the Contract. This adjustment is the sole responsibility of Contractor and no cost adjustment in this Contract will be allowed to fulfill this requirement.

**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 Non-Construction Services 2017.

## **7. ACCESS AND RETENTION OF RECORDS**

**7.1 Access to Records.** Contractor shall provide Department, Legislative Auditor, or their authorized agents access to any records necessary to determine Contract compliance. Department may terminate this Contract under section 15, Contract Termination, without incurring liability, for 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 Department's prior written consent. (18-4-141, MCA) Contractor is responsible to 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 Department under this Contract.

## **9. HOLD HARMLESS/INDEMNIFICATION**

Contractor agrees to protect, defend, and save 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, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of Department, under this Contract.

## **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 Department, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by 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.

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.

Department, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, owned, or borrowed by Contractor. Coverage should be separate and in addition to current automobile liability policies held by the Contractor for separate facilities.

**10.5 Deductibles and Self-Insured Retentions.** Any deductible or self-insured retention must be declared to and approved by Department. At the request of Department either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects 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.

**10.6 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 State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. *The certificates must name the State of Montana as certificate holder and Contractor shall provide copies of additional insured endorsements required by Contractor's commercial general liability and automobile liability policies.* Contractor must notify Department immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. Department reserves the right to require complete copies of insurance policies at all times.

## **11. COMPLIANCE WITH WORKERS' COMPENSATION ACT**

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for State 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 State employees. This insurance/exemption must be valid for the entire Contract term and any renewal. Upon expiration, a renewal document must be sent to State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135.

## **12. 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, DEPARTMENT Policy 1.3.14, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident reporting. CONTRACTOR shall establish a zero-tolerance policy to incidents of sexual assault/rape or sexual misconduct. Any subletting or subcontracting by Contractor subjects 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. DISABILITY ACCOMMODATIONS**

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.

## **14. REGISTRATION WITH THE SECRETARY OF STATE**

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated 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>.

## **15. CONTRACT TERMINATION**

**15.1 Termination for Cause with Notice to Cure Requirement.** 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.

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

**15.3 Reduction of Funding.** Department must by law terminate this Contract if funds are not appropriated or otherwise made available to support 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 state 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, Department shall terminate this Contract as required by law. Department shall provide Contractor the date Department's termination shall take effect. Department shall not be liable to Contractor for any payment that would have been payable had the Contract not been terminated under this provision. As stated above, Department shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date Department's termination takes effect. This is Contractor's sole remedy. Department shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

## **16. EVENT OF BREACH – REMEDIES**

**16.1 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 breaching section 21.1, Technical or Contractual Problems, obligations; or
- Ⓢ Voluntary or involuntary bankruptcy or receivership.

**16.2 Event of Breach by Department.** Department's failure to perform any material terms or conditions of this Contract constitutes an event of breach.

**16.3 Actions in Event of Breach.** Upon Contractor's material breach, Department may:

- Ⓢ Terminate this Contract under Section 15.1, Termination for **Cause** 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 Department's material breach, Contractor may:

- ⌚ Terminate this Contract under section 15.2, Termination for Cause with Notice to Cure, 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.

**17. 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.

**18. 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.

**19. CONFORMANCE WITH CONTRACT**

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the Contract shall be granted without the State Procurement Bureau's prior written consent. Product or services provided that do not conform to the Contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

**20. LIAISONS AND SERVICE OF NOTICES**

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

Stacey Pace is Department's liaison  
5 South Last Chance Gulch  
Helena, MT 59601  
Telephone: (406) 444-3853  
Cell Phone:  
Fax:  
E-mail: [skpace@mt.gov](mailto:skpace@mt.gov)

Scott Mansanti is Contractor's liaison  
471 E. Mercury St  
Butte, MT 59701  
Telephone:  
Cell Phone: (406)-533-8501  
Fax:  
E-mail: [smansanti@cccscorp.com](mailto:smansanti@cccscorp.com)

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

**20.3 Identification/Substitution of Personnel.** The personnel identified or described in Contractor's proposal shall perform the services provided for Department under this Contract. Contractor agrees that any personnel substituted during the term of this Contract must be able to conduct the required work to industry standards and be equally or better qualified than the personnel originally assigned. Department reserves the right to approve Contractor personnel assigned to work under this Contract and any changes or substitutions to such personnel. Department's approval of a substitution will not be unreasonably withheld. This approval or disapproval shall not relieve Contractor to perform and be responsible for its obligations under this Contract. Department reserves the right to require Contractor personnel replacement. If Contractor personnel become unavailable, Contractor shall provide an equally qualified replacement in time to avoid delays to the work plan.

## **21. MEETINGS**

**21.1 Technical or Contractual Problems.** Contractor shall meet with 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 Department in the performance of their respective obligations, at no additional cost to the Department. Department may request the meetings as problems arise and will be coordinated by Department. 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.

**21.2 Progress Meetings.** During the term of this Contract, Department's Contract Liaison shall plan and schedule progress meetings with Contractor to discuss Contractor's and Department's progress in the performance of their respective obligations. These progress meetings will include Department's Contract Liaison, Contractor's Contract Liaison, and any other additional personnel involved in the performance of this Contract as required. At each meeting, Contractor shall provide Department with a written status report that identifies any problem or circumstance encountered by Contractor, or of which Contractor gained knowledge during the period since the last such status report, which may prevent Contractor from completing any of its obligations or may generate charges in excess of those previously agreed to by the parties. This may include the failure or inadequacy of Department to perform its obligation under this Contract. Contractor shall identify the amount of excess charges, if any, and the cause of any identified problem or circumstance and the steps taken to remedy the same.

**21.3 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 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.

**21.4 Department's Failure or Delay.** For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of Department's failure or delay in discharging any Department obligation, Department shall review same and determine if such problem or circumstance was in fact the result of such failure or delay. If 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 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.

## **22. TRANSITION ASSISTANCE**

If this Contract is not renewed at the end of this term, if the Contract is otherwise terminated before project completion, or if particular work on a project is terminated for any reason, Contractor shall provide transition assistance for a reasonable, mutually agreed period of time after the expiration or termination of this Contract

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

**23. CHOICE OF LAW AND VENUE**

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

**24. TAX EXEMPTION**

State of Montana Department of Corrections 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].

**25. AUTHORITY**

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

**26. SEVERABILITY**

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.

**27. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT**

**27.1 Contract.** This Contract consists of **fourteen (14)** numbered pages, any Attachments as required, Solicitation # **COR-IFB-2018-0093N**, as amended, and Contractor's response, as amended. In the case of dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

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

**28. WAIVER**

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.

**29. EXECUTION**

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

**STATE OF MONTANA**

**Department of Corrections**  
**PO Box 201301**  
**Helena, MT 59620-1301**

**CONTRACTOR**

**Community, Counseling and Correctional**  
**Services, Inc.**

**471 E. Mercury Street**  
**Butte, MT 59701**  
**FEDERAL ID # 81-0413419**

BY: Kevin Olson  
(Name/Title)

BY: \_\_\_\_\_  
(Name/Title)

DocuSigned by:  
Kevin Olson  
0F69E730A0EA445...  
(Signature)

DocuSigned by:  
Mike Thatcher  
B78D019236194D6...  
(Signature)

DATE: 12/8/2017

DATE: 12/5/2017

Approved as to Legal Content:

DocuSigned by:  
Colleen E. Paulose 12/5/2017  
FF888078013447...  
Legal Counsel (Date)

Approved as to Form:

DocuSigned by:  
Nicole Orta 12/1/2017  
6407350C31CE4E6...  
Procurement Officer (Date)  
State Procurement Bureau