

## CONTRACT AMENDMENT CONTRACT 10-056-ACCD

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

WHEREAS, the parties have entered a Contract with an original effective date of February 11, 2010 and Section 20 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on June 30, 2015 and Section 5 provides that the parties may extend the expiration date of the Contract.

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

### 5. TIME OF PERFORMANCE

~~This Contract shall take effect upon receipt of final Contract signature and shall terminate June 30, 2015, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of seven (7) years.~~

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

This Contract shall take effect upon final contract signature. This Contract shall expire on **June 30, 2016**, unless either party provides a written notice of cancelation at least 30 days prior. In the event neither party provides a written notice of cancelation 30 days prior to June 30, 2016, this Contract shall continue on a month-to-month basis until such time as the parties mutually agree to an annual renewal of the contract or either party provides a written 30 day notice of cancellation.

In no event may this Contract continue or be renewed for a period exceeding a total of **seven (7) years**.

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

**DEPARTMENT**

  
\_\_\_\_\_  
Kevin Olson, Administrator  
Probation and Parole Division

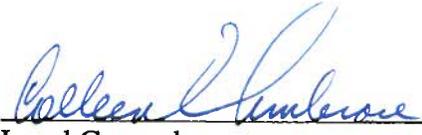
5/20/15  
\_\_\_\_\_  
Date

**CONTRACTOR**

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

6/4/15  
\_\_\_\_\_  
Date

Reviewed for Legal Content by:

  
\_\_\_\_\_  
Legal Counsel  
Department of Corrections

5-20-15  
\_\_\_\_\_  
Date

**CONTRACT AMENDMENT  
CONTRACT 10-056-ACCD**

THIS CONTRACT AMENDMENT (**Amendment #4**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 5 S. Last Chance Gulch, Helena, Montana 59620-1301 and **Community, Counseling, and Correctional Services, Inc. (CONTRACTOR)** 471 East Mercury, Butte, MT 59701 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of February 11, 2010 and Section 20 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on June 30, 2014 and Section 5 provides that the parties may extend the expiration date of the Contract.

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

**5. TIME OF PERFORMANCE**

This Contract shall take effect upon receipt of final Contract signature and shall terminate June 30, 2014 ~~2014~~ 2015, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of seven (7) years.

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

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

**DEPARTMENT**

  
\_\_\_\_\_  
Pam Bunke, Administrator  
Adult Community Corrections Division

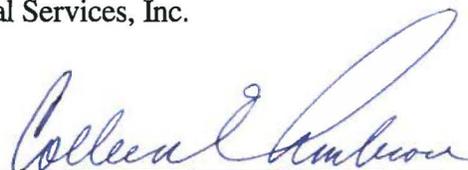
4-9-14  
\_\_\_\_\_  
Date

**CONTRACTOR**

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

4/15/14  
\_\_\_\_\_  
Date

Reviewed for Legal Content by:

  
\_\_\_\_\_  
Legal Counsel  
Department of Corrections

4-9-14  
\_\_\_\_\_  
Date

**CONTRACT AMENDMENT  
CONTRACT 10-056-ACCD**

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

WHEREAS, the parties have entered a Contract with an original effective date of February 11, 2010 and Section 20 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on June 30, 2013 and Section 5 provides that the parties may extend the expiration date of the Contract.

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

**5. TIME OF PERFORMANCE**

This Contract shall take effect upon receipt of final Contract signature and shall terminate June 30, ~~2013~~ 2014, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of seven (7) years.

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

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

**DEPARTMENT**

  
Pam Bunke, Administrator  
Adult Community Corrections Division

9/27/13  
Date

**CONTRACTOR**

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

10/8/13  
Date

Reviewed for Legal Content by:

  
Legal Counsel  
Department of Corrections

9/26/13  
Date

**CONTRACT AMENDMENT  
CONTRACT 10-056-ACCD**

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

WHEREAS, the parties have entered a Contract with an original effective date of February 11, 2010 and Section 20 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on June 30, 2012, and Section 3 provides that the parties may extend the expiration date of the Contract.

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

**5. TIME OF PERFORMANCE**

This Contract shall take effect upon receipt of final Contract signature and shall terminate June 30, ~~2012~~ 2013, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of ~~four (4)~~ seven (7) ~~additional~~ years.

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

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

**DEPARTMENT**



\_\_\_\_\_  
Pam Bunke, Administrator  
Adult Community Corrections Division

4/24/12  
\_\_\_\_\_  
Date

**CONTRACTOR**



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

5/8/12  
\_\_\_\_\_  
Date

Reviewed for Legal Content by:

Diana L. Koch  
\_\_\_\_\_  
Legal Counsel  
Department of Corrections

4/24/12  
\_\_\_\_\_  
Date

## CONTRACT AMENDMENT CONTRACT 10-056-ACCD

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

WHEREAS, the parties have entered a Contract with an original effective date of February 11, 2010 and Section 20 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on June 30, 2011 and Section 3 provides that the parties may extend the expiration date of the Contract.

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

### 2. DUTIES AND RESPONSIBILITIES OF CONTRACTOR

2.9 CONTRACTOR shall ensure that offenders are restrained, as appropriate, while in custody of CONTRACTOR. Offenders transported **to and from** Nexus and Elkhorn from county jails, MASC, Passages, START or MSP, MWP or regional Prisons, shall be transferred [from vehicle to vehicle] only within the confines of a secure setting (e.g. Facilities with Sally Ports) and restrained with wrist, waist, and leg restraints. Offenders transported from Nexus and Elkhorn to prerelease placement may be transported with minimal restraints.

### 3. COMPENSATION/BILLING

DEPARTMENT shall compensate CONTRACTOR for successful delivery of services provided pursuant to Section 2, in the following manner:

A. For the contract period ending June 30, ~~2011~~ 2012, CONTRACTOR will invoice DEPARTMENT three thousand and 00/100 dollars (\$3,000.00) per month for transportation of male offenders to/from the Nexus Facility in Lewistown and one thousand five hundred and 00/100 dollars (\$1,500.00) per month for transportation of female offenders to/from the Elkhorn Facility in Boulder. The total **maximum** amount paid under this Contract for services provided during ~~FY 2010 is \$22,500.00 and FY 2011~~ 2012 is \$54,000.00, unless otherwise authorized in writing by DEPARTMENT.

B.- D. No Changes.

### 5. TIME OF PERFORMANCE

This Contract shall take effect upon receipt of final Contract signature and shall terminate June 30, ~~2011~~ 2012, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of ~~five (5)~~ four (4) additional years.

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

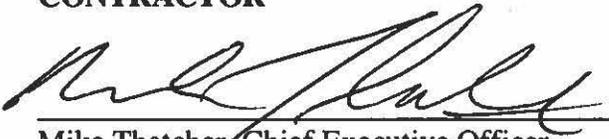
This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

**DEPARTMENT**

  
\_\_\_\_\_  
Pam Bunke, Administrator  
Adult Community Corrections Division

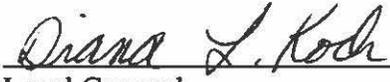
3-14-11  
\_\_\_\_\_  
Date

**CONTRACTOR**

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

3/17/11  
\_\_\_\_\_  
Date

Reviewed for Legal Content by:

  
\_\_\_\_\_  
Legal Counsel  
Department of Corrections

3/14/11  
\_\_\_\_\_  
Date

## 1. PARTIES

The Montana Department of Corrections (DEPARTMENT) and **Community, Counseling, and Correctional Services, Inc. (CONTRACTOR)** enter into this Contract (10-056-ACCD). The party's names, addresses, and telephone numbers are as follows:

Montana Department of Corrections  
Adult Community Corrections Division  
1539 11<sup>th</sup> Avenue  
PO Box 201301  
Helena, MT 59620-1301  
(406) 444-3930

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

### 1.1 Document Precedence

This Contract consists of, and precedence is established by, the order of the following documents, which are incorporated into this Contract by reference and hereby made a part of this Contract as if set forth in full herein:

1. This Contract document; and
2. CONTRACTOR'S *specific transportation offer* addressed in the original response to the Request for Proposals document (RFP# 06-001-METH), as amended/clarified; and
3. CONTRACTOR'S Transportation Proposal letter of July 12, 2006, included as a part of this Contract by reference herein.

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

**NOW THEREFORE, DEPARTMENT AND CONTRACTOR, AS PARTIES TO THIS AGREEMENT AND FOR THE CONSIDERATION SET FORTH BELOW, AGREE AS FOLLOWS:**

## 2. DUTIES AND RESPONSIBILITIES OF CONTRACTOR

- 2.1 As listed herein, and in accordance with CONTRACTOR'S response (Section 3.11) to RFP 06-001-METH, as amended and/or subsequently clarified, CONTRACTOR agrees to provide *all* transportation of DOC offenders to and from the Nexus and Elkhorn Methamphetamine Treatment facilities – including initial transportation to each facility. CONTRACTOR agrees to transport offenders in accordance with the transportation procedures and policies as approved by the Contract Liaison or designee and consistent with DOC Policy 3.1.12, Offender Escort and Transport. Transportation of non-Nexus offenders between various private and state facilities, may be performed by the CONTRACTOR at no charge to the DEPARTMENT. CONTRACTOR will not authorize anyone else to pick up or deliver offenders to a DOC facility. Any authorizations must come from DOC officials.
- 2.2 CONTRACTOR will maintain a minimum of two (2) transportation vans equipped with TransMax Security Cages providing three (3) separate compartments for security of offenders and staff. CONTRACTOR will also provide an additional caged sedan for trips involving the

transport of a single offender. 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.

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

2.4 Each transport vehicle will possess an offender transport list called a "manifest." The manifest will be easily accessible and will contain pertinent offender information including the number of offenders in the transport, each offender's name and AO number, physical description, current color photo (it may be a Polaroid) that reflects the offender's current physical description, the crime(s) for which the offender was convicted, and the aggregate amount of time to which the offender was sentenced.

2.5 CONTRACTOR shall be responsible to prevent escapes during transport. CONTRACTOR shall engage in immediate and appropriate action to apprehend escapees until law enforcement authorities have assumed control of the pursuit. CONTRACTOR will immediately report any escapes to 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 local law enforcement for the apprehension and reporting of escapees during transport.

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

2.5.2 CONTRACTOR will submit an annual report containing escape information to the DEPARTMENT. This report will include offender names, crimes, type of commitment, date of entry and escape, center status or level at time of escape, and will be due by July 30<sup>th</sup> of each year. DEPARTMENT will provide a program spreadsheet to the CONTRACTOR for use in reporting applicable escape information.

2.6 CONTRACTOR shall be allowed to use force only while on the grounds of the Facility, while transporting offenders, and while pursuing escapes from the Facility. CONTRACTOR shall be authorized to use only the level of force that is consistent with DEPARTMENT policies 3.1.8, Use of Force and Restraints; 3.1.9, Use of Chemical Agents and Oleoresin Capsicum (OC); and 3.1.17, Searches and Contraband Control (additional items of contraband may be identified and

clearly defined by Program policy). **CONTRACTOR should only use non-lethal force, including OC spray, and shall not use Tasers or Stun guns.**

- 2.7 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 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. 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 further agrees to allow the State to reserve the right to refuse the use of any officer under this Contract.
- 2.7.1 All CONTRACTOR'S transportation officers must carry an ID that indicates information including, but not limited to, the company name, employees name, photo, etc. These ID's must be presented and/or displayed properly when requested by the holding facility prior to the release of any offender.
- 2.7.2 CONTRACTOR will maintain compliance with all laws related to operation of motor vehicles for hire.
- 2.8 CONTRACTOR will provide a cellular telephone for each transport vehicle and provide all transport cellular telephone numbers to DEPARTMENT.
- 2.9 CONTRACTOR shall ensure that offenders are restrained, as appropriate, while in custody of CONTRACTOR. Offenders transported to and from Nexus and Elkhorn from county jails, MASC, Passages, START or MSP, MWP or regional Prisons, shall be restrained with wrist, waist, and leg restraints. Offenders transported from Nexus and Elkhorn to prerelease placement may be transported with minimal restraints.
- 2.9.1 CONTRACTOR shall ensure that while in transport, offenders shall at all times be physically separated from transportation officers. A separate and secure section shall be provided for females, if male offenders are also being transported. A female transportation officer must also be present when transporting female offenders.
- 2.9.2 CONTRACTOR shall request prior approval, from Treatment Contract Program Manager or designee, for all overnight stays while transporting offenders. Offenders being transported to Nexus and Elkhorn and offenders being transported from Nexus and Elkhorn back to secure custody must be housed overnight in a county jail/detention facility and dressed in readily identifiable clothing in a style and design generally accepted in the "jail" industry. Offenders being transported from Nexus and Elkhorn to a prerelease placement may be housed overnight in a county jail/detention facility or a prerelease center prior to final destination and may be dressed in "street clothing."

- 2.9.3 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.
- 2.9.4 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.
- 2.10 CONTRACTOR shall provide DEPARTMENT with written reports of unusual incidents, emergencies, and/or controversial situations that arise during performance of services under this Contract. **Reports shall be submitted as soon as practical after occurrence, but not later than 24 hours after the incident.** Reports shall be sent to the Department's designee/liason listed herein, with a copy also sent to the contact person at the directly affected facility.
- 2.10.1 For the purpose of this Section 2.10, "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 transportation of an offender; any medical condition of an offender or other passenger requiring emergency medical treatment; any mechanical failure; and, any refusal by law enforcement agencies to release an offender to, or accept an offender from, CONTRACTOR.
- 2.11 CONTRACTOR is responsible for all costs related to the security, care, and transport of offenders in the custody of CONTRACTOR or its agents. Costs incurred by CONTRACTOR for emergent and non-emergent medical care during the transport are the responsibility of the DEPARTMENT, unless such costs occurred as a result of negligence on the part of the CONTRACTOR. In the event emergency care becomes necessary, CONTRACTOR is authorized to obtain such care provided the offender consents or is unable to give consent and such emergency medical care is immediately necessary. As soon as possible, following emergency care, CONTRACTOR will contact the DEPARTMENT Health Services Bureau (HSB) to provide all necessary information concerning the emergency care.

### 3. COMPENSATION/BILLING

DEPARTMENT shall compensate CONTRACTOR for successful delivery of services provided pursuant to Section 2, in the following manner:

- A. For the contract period ending June 30, 2011, CONTRACTOR will invoice DEPARTMENT three thousand and 00/100 dollars (\$3,000.00) per month for transportation of male offenders to/from the Nexus Facility in Lewistown and one thousand five hundred and 00/100 dollars (\$1,500.00) per month for transportation of female offenders to/from the Elkhorn Facility in Boulder. The total **maximum** amount paid under this Contract for services provided during **FY 2010 is \$22,500.00 and FY2011 is \$54,000.00**, unless otherwise authorized in writing by DEPARTMENT.
- B. CONTRACTOR shall invoice DEPARTMENT monthly for transportation services rendered during

the preceding month.

- C. DEPARTMENT may withhold payments to CONTRACTOR for failure to perform in accordance with the terms of this Contract.
- D. CONTRACTOR shall reference the Contract number on all invoices and correspondence pertaining to this Contract.

**4. AGENCY ASSISTANCE**

To the extent possible, CONTRACTOR shall use its own facilities and equipment in providing the 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 offender records, work space within a correctional facility, and telephone service (e.g., Montana State Prison and Montana Women's Prison do not allow wireless phones within facility).

**5. TIME OF PERFORMANCE**

This Contract shall take effect upon receipt of final Contract signature and shall terminate June 30, 2011, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of five (5) additional years.

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

**6. LIAISONS AND NOTICE**

- A. Rick Deady, ACCD Treatment Contract Programs Manager (444-4902), 1539 11<sup>th</sup> Avenue, P.O. Box 201301, Helena MT 59620-1301 or successor/designee serves as DEPARTMENT liaison.
- B. Mike Thatcher, Chief Executive Officer (782-0417), 471 East Mercury, Butte MT 59701 or successor serves as CONTRACTOR liaison.
- C. All notices and invoices required in this Contract shall be in writing, properly addressed to the liaison in (1) and (2) above and when required herein, to (3) above and mailed first-class, postage prepaid. All notices sent via U.S. Postal Service are deemed effective on the date of postmark. Notices and invoices mailed through another carrier (e.g., UPS or FedEx) are effective upon receipt.

**7. OWNERSHIP AND PUBLICATION OF MATERIALS**

Any programs, processes, or other intellectual property that CONTRACTOR develops or creates as part of its performance of services hereunder shall remain the sole property of CONTRACTOR.

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

Neither CONTRACTOR nor its employees are employees of the state. In accordance with sections 39-

71-120, 39-71-401, and 39-71-405, MCA, CONTRACTORS are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana.

CONTRACTOR shall provide proof of compliance in the form of workers' compensation insurance, an independent contractor exemption, or documentation of corporate officer status and maintain such insurance, exemption, or corporate officer status for the duration of the agreement. CONTRACTOR shall submit a copy of all renewals of expired insurance and exemptions to: Department of Corrections, Fiscal Bureau, Attn: Contracts Manager, P.O. Box 201301, Helena, MT 59620-1301.

## **9. HOLD HARMLESS AND INDEMNIFICATION**

CONTRACTOR agrees to defend and indemnify DEPARTMENT, its appointed officials, agents, and employees, while acting in the scope of their duties as such, harmless from and against all claims, demands, and 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 its agents, employees, subcontractors representatives under this Contract, except that arising out of the sole negligence of DEPARTMENT, its appointed officials, agents, and employees.

## **10. INSURANCE**

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

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

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

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

**Certificate of Insurance/Endorsements:** A certificate of insurance from insurer with a Best's rating of no less than A- indicating compliance with the required coverage's has been received by the Montana Department of Corrections, Contracts Management Bureau, PO Box 201301, Helena, MT 59620-1301 prior to start of work under this Contract. CONTRACTOR must immediately

notify the State of any material change in insurance coverage, such as changes in limits, coverage's, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

- B. 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 \$3,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of CONTRACTOR or its officers, agents, representatives, assigns or subcontractors.

**Additional Insured Status:** The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insured's; for liability arising out of activities performed by or on behalf of CONTRACTOR.

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

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

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). CONTRACTOR agrees to create and retain all records supporting the services rendered and/or supplies delivered for a period of three years after either the completion date of this Contract or the conclusion of any claim, litigation, or exception relating to this Contract taken by the State of Montana or a third party.

#### **12. PUBLIC INFORMATION**

CONTRACTOR recognizes that this Contract is subject to public inspection pursuant to Article 2, § 9 of the Montana Constitution. DEPARTMENT has a limited ability to assert a privacy interest in the subject matter of the Contract particularly with respect to information which is in the nature of a "trade secret" as the phrase is defined in federal law. In any event, CONTRACTOR agrees to hold DEPARTMENT harmless from any injury caused, in whole or in part, by the review of this agreement by an entity authorized to do so pursuant to Article 2, § 9 of the Montana Constitution.

#### **13. ASSIGNMENT, TRANSFER AND SUBCONTRACTING**

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

#### **14. AMENDMENTS**

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

**15. COMPLIANCE WITH LAWS**

CONTRACTOR must, in performance of work under the Contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including, but not limited to, those relating to operation of motor vehicles for hire, the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, and PREA. Any subletting or subcontracting by CONTRACTOR subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, CONTRACTOR agrees that the hiring of persons to perform the Contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by persons performing the Contract.

**16. TERMINATION AND DEFAULT**

- A. DEPARTMENT may, by written notice to CONTRACTOR, terminate this Contract in whole or in part at any time CONTRACTOR fails to perform as required in this Contract.
- B. Either party may terminate this Contract without cause by providing written notice to the other as described in this paragraph. The party desiring to terminate the Contract shall provide written notice to the other, which notice will establish a termination date not less than 30 days from the date of such notice. The termination of this Contract shall not limit any party's pursuit of remedies provided in this Contract or otherwise available under the laws of the State of Montana.
- C. DEPARTMENT, at its sole discretion, may terminate or reduce the scope of this Contract if available funding is reduced for any reason.
- D. Failure on the part of either party to perform the provisions of this Contract constitutes default. Default may result in pursuit of a remedy for breach of Contract including, but not limited to, monetary damages or specific performance.

**17. CHOICE OF LAW AND VENUE**

The laws of Montana govern this Contract. The parties agree that any mediation, arbitration or litigation concerning this Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees (Ref. 18-1-401, MCA).

**18. LICENSURE**

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

**19. WAIVER OF SUBROGATION**

To the extent damages are covered by insurance, the Contractor waives all rights against the Department for damages, except such rights as Contractor may have to the proceeds of such insurance. The policy or policies of insurance shall provide for such waivers of subrogation by endorsement or otherwise.

**20. INTEGRATION**

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

**21. SEVERABILITY**

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

**22. PREVAILING WAGE REQUIREMENTS – MONTANA**

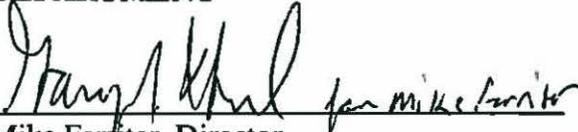
- A. Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or nonconstruction services in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto. Unless superseded by federal law, each contractor shall ensure that at least 50% of the contractor's workers performing labor on a construction project are bona fide Montana residents. The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with sections 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.
- B. In addition, unless superseded by federal law, all employees working on a public works contract shall be paid prevailing wage rates in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto. Montana law requires that all public works contracts, as defined in section 18-2-401, MCA, in which the total cost of the contract is in excess of \$25,000, contain a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, travel, per diem, and zone pay that the contractors, subcontractors, and employers shall pay during the public works contract.
- C. Furthermore, section 18-2-406, MCA, requires that all contractors, subcontractors, and employers who are performing work or providing services under a public works contract post in a prominent and accessible site on the project staging area or work area, no later than the first day of work and continuing for the entire duration of the contract, a legible statement of all wages and fringe benefits to be paid to the employees in compliance with section 18-2-423, MCA. Section 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis.

- D. Each contractor, subcontractor, and employer must maintain payroll records in a manner readily capable of being certified for submission under section 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract.
- E. The Commissioner of the Montana Department of Labor and Industry has established the standard prevailing rate of wages in accordance with sections 18-2-401 and 18-2-402, MCA, for a Correctional Officer to be \$16.74 per hour, plus a benefit rate of \$6.41.

**23. COMPLETED CONTRACT**

DEPARTMENT cannot disburse any payments under this Contract until a fully executed original Contract is returned to the Department of Corrections, Contracts Management Bureau, PO Box 201301, 1539 11<sup>th</sup> Avenue, Helena, MT 59620-1301.

**DEPARTMENT**

  
Mike Ferriter, Director  
Montana Department of Corrections

1/28/10  
Date

**CONTRACTOR**

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

2/11/10  
Date

**Approved for Legal Content by:**

  
Diana L. Koch  
Legal Counsel  
Department of Corrections

1/26/10  
Date