**THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO THE MONTANA UNIFORM ARBITRATION ACT**

## 1. PARTIES

The Montana Department of Corrections (DEPARTMENT) and **Community Hospital of Anaconda (CONTRACTOR)** enter into this Contract **(06-003-MSP)**. The parties names, addresses, and telephone numbers are as follows:

Montana Department of Corrections
Montana State Prison
1539 11th Avenue
PO Box 201301
Helena, MT 59620-1301
(406) 444-3930

***Community Hospital of Anaconda***
***401 West Pennsylvania***

***Anaconda, Montana 59711-1999***
***(406) 563-8500***

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

### 1.1 FOR PURPOSES OF THIS CONTRACT THE FOLLOWING DEFINITIONS APPLY:

A. INMATE means an adult or juvenile male or female under custody and/or control of the DEPARTMENT.

B. NECESSARY means a service or supply provided by the CONTRACTOR and determined by the DEPARTMENTS' designated agent to be:

- appropriate for the symptoms and diagnosis or treatment of the inmate's condition, illness, or injury; and
- provided for the diagnosis or the direct care and treatment of the inmate's condition, illness, or injury; and
- in accordance with standards of good medical practice; and
- not for the convenience of the inmate or the CONTRACTOR; and
- the most appropriate supply or level of service that can safely be provided to the inmate.

When applied to inpatient care, "necessary" further means that the inmate requires acute care as a bed patient due to the nature of the services rendered or the inmate's condition, and the inmate cannot receive safe or adequate care as an outpatient or, if appropriate, by early discharge to the MSP Infirmary.

C. HEALTH CARE SERVICES means receiving an inmate patient into the CONTRACTOR'S facility and furnishing such patient with the services, supplies, products, and accommodations as an inpatient including "swing bed" designation, outpatient, or emergency care.

D. PATIENT means a Department of Corrections inmate referred to the CONTRACTOR by the DEPARTMENT for the purpose of obtaining medical care.

E. DESIGNATED AGENT means Blue Cross Blue/Shield of Montana.

## 2. DUTIES AND RESPONSIBILITIES OF THE PARTIES

A. SERVICES The CONTRACTOR will provide patients with health care services, which the CONTRACTOR is medically and therapeutically able to provide. If, in the CONTRACTOR'S judgment, it is not able to provide the appropriate non-emergency level of health care services to a patient, the CONTRACTOR will immediately notify and consult with the DEPARTMENT'S Medical Director. The Medical Director, or his designee, will be responsible for approving and/or determining the appropriate provider to render the necessary services to the inmate. However, in the case of medical emergencies, the CONTRACTOR may provide necessary health care services to stabilize the situation without consultation with the DEPARTMENT or Medical Director but, the CONTRACTOR must notify the Medical Director as soon as practicable following the provision of emergency medical care.

The CONTRACTOR will provide patients with suitable facilities and health care services. The provision of health care services includes, but is not limited to, accommodations, physician services, diagnosis, X-ray/imaging, laboratory, treatment, surgery, therapy, prescription of medicine and drugs, and maintenance of records.

B. RECORDS Inmate medical records, developed while in the care of the CONTRACTOR, will remain the property of the CONTRACTOR. However, the CONTRACTOR agrees to promptly provide the DEPARTMENT or its designed agent, at no charge, copies of any records related to the care rendered to inmates, including medical and patient records. This contract requirement is explicit to the DEPARTMENT, which has legal custody and control of the inmate and to the DEPARTMENT'S contracted agent, Blue Cross/Blue Shield of Montana, which has claims adjudication/management responsibility and payment authority. It is further understood that the requirement of this section neither diminishes nor interferes with the CONTRACTOR'S legal obligation of complying with state and federal guidelines, statutes, ordinances, rules and regulations applicable to the treatment and confidentiality of medical records.

C. EMERGENCY SERVICES The CONTRACTOR will provide patients with 24-hour emergency services. Admissions resulting from an emergency must be approved by the DEPARTMENT'S managed care company, Managed Care Montana, within 24 hours of admission or the next business day, whichever is sooner.

D. COST MANAGEMENT PROGRAMS The DEPARTMENT'S managed care company, Managed Care Montana, 800-635-5271(ext.8797), must be notified within 24 hours of an inmate's admission to CONTRACTOR'S facility. Continued stay approval beyond the initial certified stay must also be obtained from Managed Care Montana.

The CONTRACTOR will cooperate with the DEPARTMENT and its designated agent in cost management programs approved by the DEPARTMENT. The DEPARTMENT may amend an existing cost management program or implement a new cost management program, with 30 days advance notice to the CONTRACTOR. The CONTRACTOR will not unreasonably withhold participation under the terms and conditions.

E. PATIENT REFERRAL The DEPARTMENT will, at its discretion, refer inmates to the CONTRACTOR for health care and related services.

F. SECURITY will be provided by the DEPARTMENT, appropriate to the inmates custody classification, while they are at the CONTRACTOR'S facility. The CONTRACTOR will bear no responsibility for providing security to patients.

G. TRANSPORTATION of inmates to and from the CONTRACTORS facility will be the sole responsibility of the DEPARTMENT.

H. FINAL AUTHORITY concerning authorization of health care services to be provided and therefore compensable will, in all cases, be the DEPARTMENT'S - except in the case of emergency services as described in Section 2.

## 3. COMPENSATION/BILLING

A. DISCOUNT The Contractor agrees to discount all patient health care service(s) claims by 20% of the Contractor's usual and customary charges, for services related to inpatient care.

The Contractor further agrees to discount all other services and supplies, provided to patients, by 20% of the Contractor's usual and customary charges in which the parties may agree to from time to time.

The Contractor agrees to accept Blue Cross/Blue Shield of Montana's usual and customary rates for professional services provided by hospital employees such as physicians and certified registered nurse anesthetists, and for outpatient lab services and other diagnostic related services, i.e.; x-rays, CTScans and MRI's. Other outpatient charges will be compensated at Contractor's usual and customary charges.

B. SUBMITTAL OF CLAIMS The Contractor must submit claims on HCFA approved forms to the Department's designated agent and Claims Administrator - Blue Cross/Blue Shield of Montana. Neither the Department nor its designated agent will be under any obligation to process any claims until the Contractor has submitted its claim on standard billing forms, presently known as the UB-92, or HCFA 1500, in a complete, approved, and appropriate format, along with the documentation required to process the claim. All claims must carry the inmate's name and "AO" identity number, which will be provided by the Department at the time of inmate's service referral. The designated agent will process the claim within 30 days of receipt of all documents necessary to process the claim. Claims may be submitted to Blue Cross/Blue Shield of Montana electronically.

Contractor claims must be submitted within 90 days of hospital discharge or date of service. The Department will accept no adjustments, including coding and late-charge adjustments, later than 30 days after payment of the original claim. Claims submitted after 90 days, or adjustments or late charges submitted 30 days after payment of the original claim, which would have resulted in an increased payment, will be forfeited. The Department shall have no liability for claims, when said claims are not submitted in accordance with these paragraphs.

C. ERRONEOUS PAYMENTS If the Department or its designated agent makes payment to the Contractor in error, either party may put the other on notice of such erroneous payment. The Department may recoup such erroneous payment from the Contractor or offset the amount of such erroneous payment against the amount the Department otherwise owes to the Contractor.

D. NON BILLABLE SERVICES The Contractor will not provide unnecessary health care services nor, bill the Department or its designated agent for any health care services which are not necessary or not authorized by the Department.

## 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 inmate 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 on July 1, 2005 and shall terminate on June 30, 2006, 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. Laura Janes, RN, Managed Care Coordinator, (406) 444-9894, 1539 11th Avenue, Helena Montana 59620-1301, or designee is the liaison for matters concerning this contract. Elizabeth Rantz, MD, Medical Director, or designee, is the liaison concerning medical service issues. The CONTRACTOR will make all official contact with the DEPARTMENT through the appropriate liaisons.

B. The CONTRACTOR designates Steve McNeese, Administrator, (406) 563-8511,401 West Pennsylvania, Anaconda Montana 59711-1999, as the liaison for the CONTRACTOR. The DEPARTMENT will make all official contact with the CONTRACTOR through Mr. McNeese or such person(s) as the CONTRACTOR appoints.

C. Mary Kay Puckett, Director of Marketing, Blue Cross/Blue Shield of Montana (406) 444-8816 or designee, is the liaison with respect to claims administration and cost management issues. The CONTRACTOR will make all official contact through her or such person as Blue Cross/Blue Shield appoints with respect to claims administration and cost management issues

D. All notices and invoices required in this Contract shall be in writing, properly addressed to the liaison in (A) and (B) above, 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

All materials CONTRACTOR develops or utilizes (i.e., reports, spreadsheets, etc.) in performing the services set forth in Section 2 above shall be the sole property of DEPARTMENT.

## 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 contract. CONTRACTOR shall submit a copy of all renewals of expired insurance and exemptions to: Department of Corrections, Fiscal Bureau, Attn: Contracts Manager, PO Box 201301, Helena, MT 59620-1301.

## 9. HOLD HARMLESS AND INDEMNIFICATION

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

B. CONTRACTOR agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, 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 omission of CONTRACTOR and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

## 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, which may arise from or in connection with the performance of the work by CONTRACTOR, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

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

**Deductibles and Self-Insured Retentions:** Any deductible or self-insured retention must be declared to and approved by DEPARTMENT. At the request of DEPARTMENT the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, and volunteers.

**Certificate of Insurance/Endorsements:** A certificate of insurance from an insurer indicating compliance with the required coverages must be received by the Contracts Manager, PO Box 201301, Helena, MT 59620-1301 prior to start of work under this Contract. CONTRACTOR must immediately notify DEPARTMENT of any material change in insurance coverage, such as changes in limits, coverages, policy status, etc. DEPARTMENT 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 (one million dollars) per occurrence and $2,000,000 (two

million dollars) 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.

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

## 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 may be 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. CONTACTOR 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 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. 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. ARBITRATION

Any Claim arising out of, or related to, this Contract shall be settled by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. Judgment on the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof.

## 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. COMPLETED CONTRACT

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

## SIGNATURE

**DEPARTMENT**

Mike Mahoney, Warden
Montana State Prison

1-3-06
Date

**CONTRACTOR**

Steve McNeese, Administrator
Community Hospital of Anaconda

1.11.06
Date

Approved for Legal Content by:

Legal Counsel
Department of Corrections

12/29/05
Date

# CONTRACT AMENDMENT
# CONTRACT #06-003-MSP

THIS CONTRACT AMENDMENT (**Amendment #1**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 1539 11th Ave., Helena, Montana 59620-1301 and **Community Hospital of Anaconda** (CONTRACTOR) 401 West Pennsylvania, Anaconda, Montana 59711-1999 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of July 1, 2005 and Section 20 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on June 30, 2006 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. <u>TIME OF PERFORMANCE</u>**

This Contract shall take effect on July 1, 2005 and shall terminate on June 30, ~~2006~~ <u>2007</u>, 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)~~ <u>four (4)</u> 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**

Mike Mahoney, Warden
Montana State Prison

6/5/06
Date

**CONTRACTOR**

Steve McNeese, Administrator
Community Hospital of Anaconda

6-7-06
Date

Reviewed for Legal Content by:

Legal Counsel
Department of Corrections

6/2/06
Date

# CONTRACT AMENDMENT
# CONTRACT #06-003-MSP

THIS CONTRACT AMENDMENT (**Amendment #2**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 1539 11th Ave., Helena, Montana 59620-1301 and **Community Hospital of Anaconda** (CONTRACTOR) 401 West Pennsylvania, Anaconda, Montana 59711-1999 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of July 1, 2005 and Section 20 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on June 30, 2007 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. <u>TIME OF PERFORMANCE</u>**

This Contract shall take effect on July 1, 2005 and shall terminate on June 30, ~~2007~~ <u>2008</u>, 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)~~ <u>three (3)</u> 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**

Mike Mahoney, Warden
Montana State Prison

6-1-07
Date

**CONTRACTOR**

Steve McNeese, Administrator
Community Hospital of Anaconda

6.13.07
Date

Reviewed for Legal Content by:

Legal Counsel
Department of Corrections

5/29/07
Date

# CONTRACT AMENDMENT
# CONTRACT #06-003-MSP

THIS CONTRACT AMENDMENT (**Amendment #3**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 1539 11th Ave., Helena, Montana 59620-1301 and **Community Hospital of Anaconda** (CONTRACTOR) 401 West Pennsylvania, Anaconda, Montana 59711-1999 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of July 1, 2005 and Section 20 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on June 30, 2007 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 on July 1, 2005 and shall terminate on June 30, ~~2008~~ 2009, 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 ~~three (3)~~ two (2) 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**

Mike Mahoney, Warden
Montana State Prison

6/6/08
Date

**CONTRACTOR**

Steve McNeese, Administrator
Community Hospital of Anaconda

6/12/08
Date

Reviewed for Legal Content by:

Legal Counsel
Department of Corrections

5/29/08
Date