

## Weiss, Rachel

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**From:** Josh Butterfly <butterflyjosh4@gmail.com>  
**Sent:** Thursday, September 10, 2020 10:01 PM  
**To:** Weiss, Rachel  
**Subject:** [EXTERNAL] For public comment: individuals herein are top prison officials of the Montana department of correction/MSP.  
**Attachments:** 4850967648246974747.jpg

Correctional officer Sup Mgr. Crystal Thompson: [cthompson2@mt.gov](mailto:cthompson2@mt.gov)  
406 846 1320

Mental health services manager. Michele Steyh: [MSteyh@mt.gov](mailto:MSteyh@mt.gov)  
406 415 6509

Correctional officer sargent. Larry Pasha: [LPasha@mt.gov](mailto:LPasha@mt.gov)  
406 846 1320

These are three of the 74 involved in the scandal. And elevated through the ranks. Many of which are still employed and elevated through the ranks. Review of the investigative reports is recommended and encouraged.

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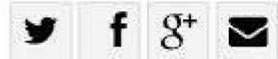
# Montana DOC Employees Disciplined for E-mail Abuse

Loaded on OCT. 15, 2008 published in Prison Legal News October, 2008, page 33

Filed under: [Misconduct/Corruption](#), [Guard Misconduct](#), [DOC/BOP misconduct](#), [Internet](#). Location: [Montana](#).

An internal investigation of e-mail abuse in the Montana Dept. of Corrections (DOC) uncovered what was termed “disgusting” behavior on the part of guards and even high-level prison officials. Seventy-four employees were cited for abusing state computer privileges.

Share:



Their offenses included e-mailing sexually and racially inappropriate material, chain letters, videos, jokes and pictures. One image, which was referred to the sheriff's department and FBI for review, contained a photo of a naked child.

All 74 employees were called on the carpet to answer for their misbehavior; disciplinary actions included verbal warnings, written warnings, 1-to-9 day suspensions and even several “last chance” agreements in which employees acknowledged that further infractions would result in termination. One employee resigned. The sheriff's department declined to press charges over the nude child picture.

The DOC has had to deal with the problem of e-mail abuse before; it has now implemented a monthly audit to screen employees who were previously warned as well as a number of randomly selected staff members.

On December 9, 2007, the DOC announced that it would still allow limited e-mail use for appropriate situations such as notifying family members that an employee would have to work late. “I believe we are moving in the right direction with this matter and do not anticipate that we will experience significant problems with abuse of the e-mail system again,” stated Warden Mike Mahoney.

Eric Feaver, president of the DOC's guard union, said he felt that the discipline was handled “adequately and correctly.” However, he pointed out that many of the e-mail abusers occupied managerial positions and were not under the union's authority.

The scandal made such a splash that even Gov. Brian Schweitzer warned his staff not to engage in e-mail abuse.

Sources: Associated Press, Billings Gazette

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9-3-20

To: Law and Justice committee

I am writing this in the hope that you will see how hard it is to get the court system to examine mental health issues. I tried to get my lawyers to help me understand what was going on and i told them about my Dr's for my brain injuries but they didnt care and i tried to tell the judge at my trial but i couldn't get her to understand. I tried to get my pre-trial monitor to understand but he didn't care. I had my ADA aid help me write letters to my new lawyer to get help but my lawyer hasn't answered my mail. My ADA aid helped me write two motions for a mental health exam but the judge never ruled on them. I sent all the letters and motions to you so you can see them. Theres letters from my ADA aids and other people who help me too. My neurologist told me to listen to my wife and do what she told me but shes not here. I just want this all to be fair. I want to see a Dr to help me understand and so others understand my problems. it's not fair i used to be smarter but i dont understand anymore please help me! Cody Johnston Cody Johnston

Cody Wayne Johnston  
#3020512  
50 Crossroads Dr.  
Shelby MT 59474

Montana Seventh Judicial District Court  
Richland County

Cody Wayne Johnston  
Pro-Se Petitioner

VS.

State of Montana  
Respondent

Cause No DV-2018-185  
Motion to have the court  
review petitioners mental  
health records from Cross-  
roads Correctional Center  
in refrence to petitioners  
motion for mental health  
exam

Pro-Se petitioner Cody Wayne Johnston asks the court to subpoena and review the petitioners mental health records from Crossroads Correctional Center in refrence to petitioners motion requesting a mental health exam. The petitioner asks the court to subpoena mental health records and statements from Ms.Waters and Mr.Baliko, both mental health professionals at Crossroads Correctional center. The petitioner believes that this information will help cooborate the petitioners previous report from Dr.Trontell. This information will show that the petitioner is having now and was having during trial, memory loss, confusion anxiety, great dependance on others for daily activities, and confusion about time. This issue was brought up at sentancing and it is on the record, the petitioner believes it was handled poorly by the Defense council, and these records from Crossroads will help the court in making a decision on the petitioners motion for a mental health exam.

Signed this 25th day of May, 2019

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Cody Wayne Johnston  
Pro-Se Petitioner

CODY WAYNE JOHNSTON  
3020512  
50 CROSSROADS DRIVE  
SHELBY MY 59474

MONTANA SEVENTH JUDICIAL DISTRICT COURT  
RICHLAND COUNTY

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CODY WAYNE JOHNSTON,	)	CAUSE NO. DV-2018-185
PETITIONER PRO-SE	)	Honorable Judge Best
	)	MOTION FOR A MENTAL HEALTH
VS.	)	EXAM FOR THE PETITIONER
	)	UNDER MCA 46-14-202
STATE OF MONTANA	)	EXAMINATION OF DEFENDANT
RESPONDENT	)	

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Comes now Cody Wayne Johnston, Pro-Se petitioner, to here by move and request that the court orders a mental health examination of the petitioner. The only exam that has been done was solely paid for by the petitioner and due to confusion between the petitioner and council, the neurophscylogist was not informed of petitioners legal situation which could have skewed the testing and/or results. This testing was solely to diagnose affects from **Traumatic brain Injury**, with Dr.Trontell not knowing about the petitioners legal jeopardy, how could he determine fitness for court. Therefor attempting to say that this test says the petitioner was fit for trial is completely untrue because the doctor was not testing for that. The petitioner was seeking to determine damage from traumatic brain injuries, while counting on his attorneys to defend him. The petitioner repeatedly asked council about his mental health issues, and told them about confusion and memory problems. The prtitioner does not sayt that he is "crazy" or "incompetent" but says that he has memory loss and is extremely confused at times. This leads the petitioner to be more dependant on others to help him. The petitioner does not remember the events at and/or before trial like my former attorneys do. [see States exhibits 1&2,Affidavits of Clark Matthews and Casey Moore]. In Clark Matthews statement pg 6 line 21, Mr. Matthews talks about the fact that Lisa Sullivan says that she has a traumatic brain injury and memory loss.

It seems that he puts some weight on this statement from her without seeing her Dr. reports. Mr. Moore states the same on pg8 line 22. If the petitioners neuropsychologist report is actually examined and the reader does not only read the diagnosis, there are troubling facts to be seen.

- 1) "Sustained and divided attention were poor with scores below the 10th percentile and some below the 5th percentile"
- 2) "A complex auditory attention test with robust ecological validity was very low at the 1st percentile.
- 3) "When attention related tasks were collapsed into a single score the overall attention index on the NAB was 63 at the 1st percentile.
- 4) "Visual naming was at the 12th percentile, a low score"
- 5) "However on verbal learning tasks Mr. Johnston often inserted semantically related but incorrect words."
- 6) "Phonic fluency was at the 5th percentile standing alongside a semantic fluency score at the 53rd percentile." A clinically significant disparity suggesting executive or frontal compromise.
- 7) "It appeared that information was fully consolidated in long term storage, however intrusions occurred during learning. There were intrusions of false positives on a recognition trial consistent with poor executive control."
- 8) "Most notable was his deficient performance on a task that requires foresight, planning and impulse control. His ability to complete more difficult pencil mazes was at the 1st percentile while such performance is often found in persons with dorsolateral pre frontal dysfunction.
- 9) "Mr. Johnston appeared to be suffering from clinically significant deficits with respect to auditory sustained attention, and working memory coupled with poor inhibition. leading to ill deliberated planning and to "impulse" actions. the results of testing and his history suggested dysfunction of the neurocognitive processes subserved by the anterior structures.
- 10) The presence of deficits was supported by the test results and emotional factors did not appear to be primary.

- 11) The most recent acceleration/decelleration injury appeared to produce notable attentional and working memory difficulties which compromised his ability to store information in organized or complete ways and to retrieve information efficiently.
- 12) He was also more impatient and abrupt when frustrated or faced with novel complicated tasks.

Petitioner refers to pg 1073 of sentencing transcripts line 18-25 and pg 1074 line 1-7.

This is an exchange between the petitioner and Casey Moore during sentencing. Mr. Moore asks the petitioner why he did not tell Dr. Trontell about his trial, and the petitioner states because Clark Matthews, his other attorney, told him not to speak to anyone about his case.

Pg 1074 ln 4-6, It appears that Mr. Moore was confused, and possibly upset at the petitioners statements, and at the very least he seems unprepared for this answer from the petitioner.

The petitioner will cite item #6, 8, and 9 from page 3 of this motion, and in Frye vs Warden, 2013 Lexis 171220, the court held that "frontal lobe damage disrupts a persons ability to correctly percieve situations, with poor tolerance for frustration and greater dependance on others". Ln 6, 8, and 9 specifically talk about "frontal compromise", "clinically significant deficits", "dorsolateral prefrontal dysfunction", and "dysfunction of the neurocognitive process subserved by the anterior structures".

The petitioner was a 36 year old family man who had never been in legal trouble. A man that spent two months in solitary confinement before he could be bonded out. The petitioner got and held down a job while wearing an ankle monitor and traveling from kalispell to Missoula every Friday to meet with Compliance Monitoring. The petitioner was also selling vehicles and anything wise that could be sold to pay a mortgage and child support that his job would not cover. The petitioners son was born pre-mature and spent two months in the NICU, where the petitioner went every morning before work to read from the Bible to his son.

This high stress state of mind left the petitioner trusting his attorneys to be honest and have his best interest in mind. The petitioner was taking 60mg of Ritalin twice a day to attempt to concentrate, along with Nortryptiline to help him sleep and reduce headaches, citalopram to decrease his anxiety and Aricept to help the petitioners memory. All of these meds helped the petitioner to APPEAR normal. The petitioner repeatedly asked about mental health issues and discussed all of his appointments with his attorneys. The petitioners attorneys knew that he was seeing a speech Pathologist and a physical therapist weekly. The speech Pathologist having the petitioner using a specialty "Brain Game" type program every night at home for 30 minutes to an hour. The petitioner was seeing his Neurologist and counselor at least once a month to discuss treatments and medicine and dosage. The petitioner was medicated and spending multiple hours a week in an attempt to be "normal" to find out what had happened to him following his last car accident and the previous fork lift accident. Court records show all the appointments the petitioner had as most of them had to be cleared by the court and State. The petitioner stated that he was confused and having troubles remembering and making sence of things befor and during trial. The petitioner did what my lawers suggested. The petitioner feels that this was not the right thing.

Under the "AmericANS WITH Disabilities Act", the petitioner has been appointed an ADA aid at the prison. The petitioners ADA has been appointed by the head of mental health and the ADA coordinator at the prison. The petitioners aid has been appointed to help read, write, type, and understand the petitioners legal work. [see attached exhibit A] The petitioner also includes exhibit B, a declaration from ChaD Bjork, an inmate at Montana state Prison, who used to help and advise the petitioner with his legal work. The petitioner recieved assistance with legal work from Mr. Bjork and Lionel Scott Ellison before he was transferred to Crossroads Correctional Center. [please see following case law]

EEOC vs RJ Gallagher Co 181 f3d 645 5th cir (1998)  
one does not have to have "some obvious specific handicap" in order

to be regarded as disable for ADA purposes.

Taylor vs Phoenixville School Dist 184 f3d 296 3rd Cir (1999)  
Thinking is a major life activity under the ADA.

Jenkins vs Cleco Power 487 f3d 309 5th Cir (2007)  
"major life activities" as defined by the ADA refer to those activities of central importance to most peoples everyday lives.

Hall vs Thomas 190 f3d 693 5th Cir (1999)  
The ADA applies to all prisoners  
Mingus vs Butler 591 f3d 474 6th Cir (2010)  
The ADA applies to both Federal and State prisons

The petitioners attorneys opened the door with their statements in exhibits A and B in the states reply brief to the petitioners Post Conviction relief. Mr. Matthews and Mr. Moore brought up the court mentioning a lesser included offence. The petitioner remembers this sequence of events very differently than his former attorneys do. At this point of the trial, the petitioner, his wife, and his father-in-law R.H Goose Fleming all thought that there was a defence strategy and that there would be witnesses called in defence of the petitioner. The petitioner would ask that statements from the aforementioned individuals be procured for evidentiary purposes.

When the court mentioned a lesser included offense, the petitioners attorney took him into a room and, the way the petitioner recalls, told him that he would have to say he was guilty to get that instruction. The petitioner still does not understand if that is true or if he was led to make the wrong decision. Even medicated as Dr. Trontells report shows, the petitioner has a "frontal compromise" which make his thought process slow and when approached with a concept he did not understand or have fully explained to him, he made an impulse decision that was wrong. Had the Petitioners attorney had a full mental health exam done, they could have taken the time to properly explain and make sure the petitioner understood a foreign legal concept. [see #12 from Dr. Trontells report]

US vs Nguyen 262 f3d 998 9th Cir (2001)  
even if present council is competent, a serious breakdown in communication can result in inadequate defense.

When the petitioners attorneys took him into the same room. the petitioner recalls them telling him that if he did not testify, the jury would think he was guilty. The petitioners friends and family can attest to how confused the petitioner was during the court proceedings. There was no clear strategy or plan, further confusing the petitioner with mixed statements and signals. The petitioner was unprepared and tried to get his testimony moved to the next day so his attorneys could prepare him. With the petitioners brain injury he has a very straight line concrete approach to everything. The petitioner feels that the lesser included offence was not properly explained. The petitioner has to have things thoroughly explained and they must be explained slowly and sometimes repeatedly. I believe if my attorney had taken the time to understand my condition and my deficits then my trial may have gone differently and the petitioner may have made different choices.

The petitioner will cite the following Federal and State case laws to illuminate his position.

Cooper vs Oklahoma 517 US 348,369,1165 CT 1373, 1384 134 Led 3d 498, 515 (1996)

"Finding that a state law presuming defendant is competent unless he proves his is incompetent by clear and convincing evidence violates due process.

Godinez vs Moran 509 US 389 391 113 SCT 2680, 2682, 125 Led 2d 321, 327 (1993)

Whether the defendant has sufficient present ability to consult with his lawyer with a reasonable degree of rational as well as factual understanding of the proceedings against him. #

Hendricks vs Calderon 165 F3d 1223 9th Cir (1998), Caro vs Calderon 70 F3d 1032 9th Cir (1995)

"failure to investigate a defendants organic brain damage or other mental impairments may constitute ineffective assistance of council"

Frye vs Warden 2013 Lexis 171220

"the frontal lobe damage disrupts a persons ability to correctly percieve situations with poor tolerance for frustrations and grater dependance on others"

Jacobs vs Horn 395 F3d 92 3rd Cir (2005)

Councils failure to investigate defendents competency was innefective assistance of council error was compounded by attorneys failure to notify phsychiatrist examining defendent that defendent was facing death penalty.

Seidel vs Merkle 146 F3d 750, 755 9th Cir (1998)

Innefective assistance where "trial council failed to conduct any investigation at all into clients phsychiatric history and therefore neglected to pursue a potentially successful defence.

Deutscher vs Whitley 884 F2d 1152 1159-60 9th cir (1989)

"council made no tactical decision not to investigate the defendants possible mental impairments; he simply failed to do so.

[citing NeuroScience and the Law, edited by Brent Garland]

Definitions by law;

Frontal Lobe: the single largest area of the human cerebral cortex. It is the site of emotions, cognition and motion.

Prefrontal Lobe/Cortex: The most anterior lobe of the human frontal cortex. It is involved in emotion, complex thought and problem solving

Temporal Lobe/Cortex: Lobe of the brain involved in some aspects of hearing, learning, and memory

Dorsolateral Prefrontal Cortex: part of the brain located in front of the cereberal cortex. It is involved in the human brains "executive functions" including deliberate actions goal directed behavior, attention planning and decision making.

Competency, or cognitive understanding of events and one's relationship to them, is relevant to a wide range of legal matters.

Developments in the neurosciences over the past ten years have introduced other dimensions that are relevant to the assessment of competency. Much attention has been devoted to the frontal lobe, particularly the prefrontal lobe, as having the major role in cognition.

Research is hitting all areas of human cognition, from brain processes associated with decision making and the complexity of memory to the impact of fear and other emotions on "rational" and "moral" decision making.

The research has shown the pivotal role of the hippocampal region in declarative memory, which is the ability to remember facts and events from the past.

#### CONCLUSION

The petitioner asks the court for a mental health examination, so the petitioner, court, and the state are on equal footing. If the state is correct and there is nothing wrong with the petitioner then there is nothing to lose. If the petitioner is correct and his deficits can be quantified, then the court can make sure that the following post conviction process is explained to the petitioner and he is on a level playing field. The petitioner has many specific issues and differences in memory, before, at, and during trial. The petitioner does not remember things the way his attorneys and others involved in the trial do. The petitioner is begging for a chance to be properly, and thoughtfully examined by professionals who can fully evaluate his mental health so this issue can be laid to rest.

Submitted this 18th day of April, 2019

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Cody Wayne Johnston  
Pro-Se Petitioner

#### Certificate of Service

The above petitioner is supplying a true and accurate copy of this motion ~~too~~ summary [redacted]

7th District Court  
Sidney M.T.

M.T. Attorney General's Office  
Holston M.T. 

5-6-10

Dear Mr. Howard,

I have been seeing a counselor here, Mr. Kelly. He has a lot of insight into my situation regarding the dramatic issue which I have selected. He has expressed a willingness to help, as well.

Since this is a part of my oral conviction status, I'm asking you to please contact him to investigate what his testimony can contribute.

Let me know if you have any questions.

Thanks

Cathy Johnston

Dear Mr. Howard,

7-30-20

I know PCR is really tedious & you've got a big case load, but I'd like to ask a favor anyway.

I've tried to send a few extra things that I hope will be helpful, and I'm wondering if you can please let me know what your expertise indicates we can & can't use in a short letter. I'm sorry I'm not sure if you can do anything with the case like so. It just means I can't get anything to the office.

I apologize if there is a pain but my reading comprehension is a lot better than my auditory comprehension & it makes mail a lot more constructive for me than phone calls. If you can, please, it would be a big help to me.

Thanks for everything you're doing, and may this letter find you in good health & high spirits.

Sincerely

Cody Johnston

Cody Johnston

1-8-2020

To Whom It May Concern:

I, Kevin Anthony Briggs, have been employed since mid to late 2019 as Cody Wayne Johnston's inmate helper at the Crossroads Correctional Center in Shelby, MT.

My duties include:

- Assistance in reading & comprehending legal documents?
- Assistance in remembering & attending medical & other appointments, including family phone calls
- Reminding of important dates (if he misses one, it was probably my fault).
- Assistance in writing & typing legal & medical documents and other important correspondence

Mr. Johnston struggles with the lingering effects of traumatic brain injury. Please be patient with him - he is an intelligent & thoughtful person coping with severe cognitive difficulties in some areas while remaining highly competent in others. This is not an uncommon result of traumatic brain injury.

Despite the challenges he faces, he has retained a positive attitude and has been a pleasure to work with.

If you have any questions, please feel free to contact me.

Sincerely,

KABriggs

MT DOC A0# 0060493

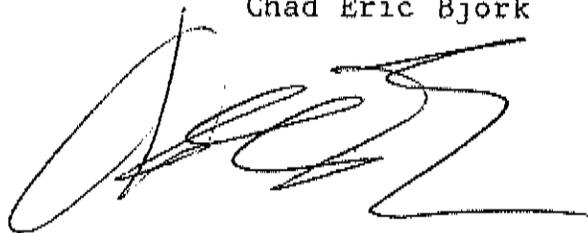
DECLARATION OF CHAD BJORK FOR CODY JOHNSTON

I Chad Eric Bjork Declare under penalty of perjury pursuant to 28 U.S.C. §1746 that the foregoing is true and accurate to the best of my knowledge.

1. I met Cody Johnston in the early spring of 2018 around the end of March.
2. Cody needed help reading, understanding and comprehending his legal work. He would ask me or other inmates around Alpha Unit of the MSP Lowside where we were both housed for help understanding it.
3. Mr. Johnston would and still does have issues with confusion when I ask him about getting help from the M.S.P. ADA coordinator to assist with his legal work and other education and therapy that he needs. He has issues with remembering what we talked about the day before.
4. There has been a multitude of times I have talked to Mr. Johnston about his past and childhood in making small talk out on the yard, yet he seems to have time distortion issues in which he thinks it is still before 2013.
5. Being a person who has also suffered multiple traumatic brain injuries in my life, I can see the symptoms that I too suffered from and still suffer from.
6. My experience with traumatic brain injury leaves me confused, with memory loss and time distortions, along with permanent disability.
7. Mr. Johnston still suffers from these issues of confusion, memory loss and time distortion now. How much was he suffering from these symptoms and issues in the years prior to his incarceration is a matter for trained brain injury specialist.
8. Here at Montana State Prison they do not treat our symptoms or problem from or due to our traumatic brain injuries. Without proper treatment for traumatic brain injuries our symptoms do not get better.

March 5, 2019

Chad Eric Bjork

A handwritten signature in black ink, appearing to read 'Chad Eric Bjork', written in a cursive style.



Crossroads Correctional Center

50 Crossroads Drive

Shelby MT 59474

April 8, 2019

Inmate Shaun Downs (3017503) is an Inmate Helper for Inmate Cody Johnston (3020512). Inmate Downs duties are listed below.

- 1) Assist in writing
- 2) Assist in typing
- 3) Assist in legal (he may only write what Inmate Johnston states and read legal material to him).
- 4) Assist with explaining disciplinary, PREA, and classification issues

If there is a reason that these duties cannot be done within the confines of the dayroom both inmates are to get with Unit Team to find an area in which to do these duties.

A handwritten signature in black ink, appearing to read "C. Wandler", with a long horizontal line extending to the right.

C. Wandler

Classification Supervisor

# Trouble with choices could signal a cognitive issue

HARVARD HEALTH PUBLICATIONS

**W**e make countless choices every day. Most are the mundane variety: what to eat, what to wear, what movie to watch. But often our decisions (or lack thereof) have a significant impact on our well-being. Poor decision making is often a consequence of natural cognitive decline. This can cloud people's judgment about what is the right course of action or make it harder to weigh multiple options. The result is that people make questionable choices, or they feel overwhelmed and don't make any decision, which is sometimes even worse.

"Poor decision-making skills can cause people to make risky financial moves, be more vulnerable to scams and not follow the best health advice," says Dr. Andrew Budson, chief of cognitive and behavioral neurology at Harvard-affiliated Veterans Affairs Boston Healthcare System. "Over time, this can affect daily behavior where you don't notice bad choices like eating that extra donut or skipping your workout."

## Taking shortcuts

Not all decision making becomes more difficult as you age. Researchers have found that, in general, older adults have a harder time making decisions that involve multiple options. However, decisions that rely on established knowledge remain strong.

Decisions that rely on established knowledge are often referred to as mental "shortcuts,"

where people draw on experience to make faster decisions with more confidence.

"For example, when you were younger, you probably spent a lot of time deciding which car to buy," Budson says. "But now you can use that previous experience in choosing your new car. You already know what to look for and have the ability and confidence to make the best selection."

## Improve your skills

You cannot always rely on mental shortcuts to make decisions. Nor is that always the best approach for difficult choices or those that require weighing multiple options. What can you do to improve your decision-making skills and increase the likelihood you make the right choices? Here are some suggestions:

### ■ Get the right amount of info.

Too much information actually doesn't make decisions easier. A study published online Feb. 13 by Cognitive Research: Principles and Implications found that obtaining basic information about a topic improves your confidence about making a good decision better than gathering no information or having too much.

■ **Narrow down multiple options.** When faced with multiple choices, focus on the two most promising, suggests a study published online Feb. 3 by Nature Human Behaviour. Researchers found that when people took this step and narrowed down their selections, they were able to make good choices in less time compared with people choosing from many options.

■ **Don't rush it.** Most poor decisions are made in a hurry. "It's best to sleep on any important decision, both because things often seem clearest in the morning when

one is wide awake and also because sleep may even improve your decisions by helping you remember relevant details and experiences," Budson says.

■ **Change perspectives.** If you are unsure of a specific choice, pretend you are trying to convince a friend to make the decision. What would you tell him

or her about all the possible advantages and disadvantages? A different perspective can often provide the clarity you need.

■ **Consult other people.** Your friends and family can help point out aspects you might not see. "And if it is an important decision, it's best to get the opinions of three or four people," Budson says.

## Ministrokes

Ministrokes also can impair decision making. A ministroke, also known as a transient ischemic attack, occurs when blood flow to part of the brain stops for a brief time. This often causes mild stroke-like symptoms, such as weakness in an arm or leg (or both), dizziness, vision changes and loss of balance.

People often ignore ministrokes because the symptoms go away after an hour or two, and they don't cause any noticeable lasting problems. However, you should never ignore them.

"Not only are ministrokes harbingers of possible large strokes, if they accumulate over time, ministrokes can slow down the brain's processing speed," Budson says. If you experience any ministroke symptoms or have noticed a sudden change in your decision-making ability, notify your doctor immediately.



## Ministrokes by the numbers

If you're worried that you're having a transient ischemic attack, get medical help right away. If you think you might've had one in the past, talk with your doctor.

**240,000**

Americans experience a transient ischemic attack each year

**About one third**

Of people who have a TIA go on to have a more severe stroke within a year

**Between 7% and 40%**

Of patients who are treated for a blockage-related stroke report experiencing a TIA first

**Up to 25%**

Of people who suffer a TIA die within one year

Source: American Stroke Association

7-13-20

Certificate of Completion

**"Trauma, Grief and the Way Forward"**

**Cody Johnston**

demonstrated regular attendance, positive participation and advancement of skills in the treatment group sessions at Crossroads Correctional Center.

Winter of 2019-2020

(7 sessions, Nov- Jan )

S. Baliko LCP

Mr. S. Baliko, LCPC

Facilitator

CCC- Mental Health Dept.

K. Waters LCP

Ms. K. Waters, LCPC

MH Coordinator

CCC- Mental Health Dept.

Certificate of Completion  
**Trauma, Grief and the Way Forward**

*Cody Johnston*

Has demonstrated regular attendance, positive participation and advancement of skills in the treatment group sessions at Crossroads Correctional Center.

Fall of 2019  
(8 sessions, September - October)



Mr. S. Baliko, LCPC

QMHP/Facilitator

CCC- Mental Health Dept.

## Mass Testing for SARS-CoV-2 in 16 Prisons and Jails — Six Jurisdictions, United States, April–May 2020

Liesl M. Hagan, MPH<sup>1</sup>; Samantha P. Williams, PhD<sup>1</sup>; Anne C. Spaulding, MD<sup>2,3</sup>; Robin L. Toblin, PhD<sup>4</sup>; Jessica Figlenski, MPH<sup>4</sup>; Jeanne Ocampo<sup>4</sup>; Tara Ross<sup>4</sup>; Heidi Bauer, MD<sup>5</sup>; Justine Hutchinson, PhD<sup>5</sup>; Kimberley D. Lucas, MPH<sup>5</sup>; Matthew Zahn, MD<sup>6</sup>; Chun Chiang, MD<sup>6</sup>; Timothy Collins, MPH<sup>6</sup>; Alexis Burakoff, MD<sup>7</sup>; Juli Bettridge<sup>7</sup>; Ginger Stringer, PhD<sup>7</sup>; Randolph Maul, MD<sup>8</sup>; Kristen Waters<sup>8</sup>; Courtney Dewart, PhD<sup>9,10</sup>; Jennifer Clayton<sup>11</sup>; Sietske de Fijter, MS<sup>9</sup>; Radha Sadacharan, MD<sup>12,13</sup>; Linda Garcia, MPH<sup>14</sup>; Naomi Lockett, MD<sup>13</sup>; Kirstin Short, MPH<sup>14</sup>; Laxman Sunder, MD<sup>13</sup>; Senad Handanagic, MD<sup>1</sup>

Preventing coronavirus disease 2019 (COVID-19) in correctional and detention facilities\* can be challenging because of population-dense housing, varied access to hygiene facilities and supplies, and limited space for isolation and quarantine (1). Incarcerated and detained populations have a high prevalence of chronic diseases, increasing their risk for severe COVID-19–associated illness and making early detection critical (2,3). Correctional and detention facilities are not closed systems; SARS-CoV-2, the virus that causes COVID-19, can be transmitted to and from the surrounding community through staff member and visitor movements as well as entry, transfer, and release of incarcerated and detained persons (1). To better understand SARS-CoV-2 prevalence in these settings, CDC requested data from 15 jurisdictions describing results of mass testing events among incarcerated and detained persons and cases identified through earlier symptom-based testing. Six jurisdictions reported SARS-CoV-2 prevalence of 0%–86.8% (median = 29.3%) from mass testing events in 16 adult facilities. Before mass testing, 15 of the 16 facilities had identified at least one COVID-19 case among incarcerated or detained persons using symptom-based testing, and mass testing increased the total number of known cases from 642 to 8,239. Case surveillance from symptom-based testing has likely underestimated SARS-CoV-2 prevalence in correctional and detention facilities. Broad-based testing can provide a more accurate assessment of prevalence and generate data to help control transmission (4).

In May 2020, CDC requested data from 15 jurisdictions (the Federal Bureau of Prisons [BOP], 10 state prison systems, and four city or county jails), describing SARS-CoV-2 mass testing events† and cases identified before mass testing. Jurisdictions

were selected based on previous discussions with investigators about mass testing events that had already occurred. Six jurisdictions provided data from 16 adult facilities, including the number of COVID-19 cases identified among incarcerated or detained persons and staff members before mass testing and findings from subsequent mass testing events§ among incarcerated or detained persons. Data describing mass testing of staff members were not available. One jurisdiction also provided results of retesting among quarantined close contacts of persons with COVID-19, 7 days after their initial negative test result from mass testing. All jurisdictions provided qualitative information describing testing practices before mass testing, actions taken based on mass testing results, and barriers to future broad-based testing. SARS-CoV-2 prevalence was calculated within each facility and by housing type. The numbers of known cases before and after mass testing were compared. Qualitative data were summarized. All analyses were descriptive; significance testing was not performed. This investigation was reviewed by CDC for human subjects protection and determined to be nonresearch.¶

Six of the 15 queried jurisdictions (BOP, three state prison systems, and two county jails) provided aggregate, facility-level data representing 16 adult facilities (11 state prisons, three federal prisons, and two county jails). From the beginning of the COVID-19 pandemic until the date of their respective mass testing events, four facilities limited testing among incarcerated or detained persons to those with symptoms, and 12 also tested close contacts; six facilities tested small numbers of symptomatic staff members, and 10 advised staff members to seek testing from their own health care providers or health department.

All 16 facilities had identified at least one case through symptom-based testing before mass testing was conducted; the first case was identified among staff members in nine facilities, among incarcerated or detained persons in six, and in both groups the same day in one. One facility identified

\* Correctional facilities refer to state and federal prisons that incarcerate persons who have been tried for a crime, convicted, and sentenced for a duration of  $\geq 1$  year. Those convicted of federal crimes are incarcerated in federal prisons; those convicted of state crimes are incarcerated in state prisons. Detention facilities refer to jails or detention centers (including immigration detention centers) that temporarily detain persons awaiting trial, sentencing, or deportation, or those with a sentence of  $< 1$  year.

† Mass testing consisted of offering reverse transcription–polymerase chain reaction (RT-PCR) testing to all persons incarcerated or detained in at least one housing unit of a correctional or detention facility at a single point in time, irrespective of presence or history of symptoms.

§ Data elements collected included mass testing dates, facility census during testing, number of persons tested, number who declined, housing arrangements of persons tested, and test results.

¶ U.S. Department of Health and Human Services, Title 45 Code of Federal Regulations 46, Protection of Human Subjects.

a case only among incarcerated or detained persons (no staff member cases), and one facility identified a case only among staff members. The number of cases identified using symptom-based testing ranged from 0 to 181 (median = 19) among incarcerated or detained persons and 0 to 257 (median = 10) among staff members.

Mass testing in the 16 facilities was conducted during April 11–May 20. The interval between identification of the first symptomatic case and the start of mass testing ranged from 2 to 41 days (median = 25 days). Across facilities, 16,392 incarcerated or detained persons were offered testing, representing 2.3%–99.6% (median = 54.9%) of facilities' total populations; 7,597 previously unrecognized infections were identified (Table). All 15 facilities that had identified at least one case among incarcerated or detained persons through earlier symptom-based testing identified additional cases through mass testing (range = 8–2,179; median = 374). Mass testing increased total known cases from 642 (range = 2–181, median = 19) before mass testing to 8,239 (range = 10–2,193, median = 403) after mass testing (Figure), representing a 1.5–157-fold increase (median 12.3-fold) in each facility. The single facility that had identified no cases among incarcerated or detained persons before mass testing also found no cases during mass testing; with this facility included, the median fold-increase in total known cases after mass testing decreased slightly to 12.1-fold. In the 16 facilities, SARS-CoV-2 prevalence found during mass testing among incarcerated or detained persons ranged from 0% to 86.8% (median = 29.3%). Testing refusal rates ranged from 0.0% to 17.3% (median = 0.0%) (Table).

In addition to aggregate facility-level data, four of six jurisdictions provided mass testing data from 85 housing units within 12 of the 16 facilities. Forty-eight housing units were dormitory-based (open, communal spaces housing 63 to 216 persons in one room), and 37 were cell-based (with locked cells housing one to eight persons each). SARS-CoV-2 prevalence ranged from 1.8% to 45.0% (median = 14.6%) in cell-based units and 0% to 77.2% (median = 42.6%) in dormitory-based units.

In two federal prisons, all persons who had tested negative during mass testing events and had subsequently been quarantined as close contacts of persons testing positive were retested after 7 days. At retesting, 90 of 438 (20.5%) persons in BOP prison 2 and 84 of 314 (26.8%) in BOP prison 3 had positive test results.

Jurisdictions reported that mass testing results helped them construct medical isolation cohorts for persons testing positive and quarantine cohorts for their close contacts to prevent continued transmission. In some jurisdictions, results informed targeted testing strategies among asymptomatic persons in facilities where mass testing had not yet occurred (e.g., routine testing at intake, release, and before community-based

appointments, and periodic testing of those assigned to work details requiring movement between different facility areas, such as food or laundry service). Jurisdictions reported that mass testing required large investments of staff member time and operational resources, and that the ability to rearrange housing based on test results was sometimes limited by space constraints. Jurisdictions stated that evidence-based recommendations about a potential role for less time- and resource-intensive testing (e.g., point-of-care antigen or antibody testing) and swabbing methods could help them expand testing in the future.

## Discussion

High SARS-CoV-2 prevalence detected during mass testing events in a convenience sample of correctional and detention facilities suggests that symptom-based testing underestimates the number of COVID-19 cases in these settings. Mass testing resulted in a median 12.1-fold increase in the number of known infections among incarcerated or detained persons in these facilities, which had previously used symptom-based testing strategies only.

Symptom-based testing cannot identify asymptomatic and presymptomatic persons,\*\* who represent an estimated 40%–45% of infected persons across settings (5). Symptom-based testing might also be limited by hesitancy to report symptoms within correctional and detention environments because of fear of medical isolation and stigma (6). In the facilities included in this analysis, mass testing allowed administrators to medically isolate infected persons irrespective of symptoms and to quarantine their close contacts to reduce ongoing transmission. Testing refusal rates in these facilities of up to 17.3% highlight the need to communicate the importance of testing and address fear and stigma, with care to tailor messages to cultural and linguistic needs, and to develop strategies to reduce transmission risk from persons who decline testing.

High SARS-CoV-2 prevalence among persons quarantined and retested 7 days after an initial negative result indicates that curbing transmission in correctional and detention environments might require multiple testing rounds, coupled with other recommended prevention and control measures (7). Test-based release from quarantine could also be warranted. Serial testing among quarantined contacts of infected persons in a Louisiana correctional and detention facility found a 36% positivity rate 3 days after an initial negative result, indicating that a short retest interval could improve case identification (8).

\*\* Presymptomatic persons are those who are infected with SARS-CoV-2 and do not have symptoms at the time of testing, but who develop symptoms later. Asymptomatic persons are those who are infected with SARS-CoV-2 but never develop symptoms. Both presymptomatic and asymptomatic persons can transmit the virus to others.

TABLE. Results of SARS-CoV-2 mass testing events\* among incarcerated or detained persons in 16 prisons and jails — six jurisdictions, United States, April–May 2020

Jurisdiction/Facility	No. of days between identification of first case and start of mass testing <sup>†</sup>	Total persons incarcerated or detained in the facility during mass testing <sup>‡</sup>	No. (%) offered testing <sup>¶</sup>	No. (%) who declined testing	No. (%) tested	No. with interpretable results	No. (%) testing positive	Type of housing in tested units (open dorm, cells, or both)**
<b>Federal Bureau of Prisons<sup>††</sup></b>								
Prison 1	25	1,534	957 (62.4)	166 (17.3)	791 (82.7)	786	566 (72.0)	Open dorm
Prison 2	39	1,247	1,236 (99.1)	0 (0.0)	1,236 (100)	1,157	893 (77.2)	Open dorm
Prison 3	21	1,070	997 (93.2)	0 (0.0)	997 (100)	992	551 (55.5)	Both
<b>California</b>								
Prison 1	27	3,175	257 (8.1)	39 (15.2)	218 (84.8)	217	34 (15.7)	Cells
Prison 2	18	3,739	441 (12.0)	6 (1.4)	435 (98.6)	433	8 (1.8)	Cells
Prison 3	2	2,325	54 (2.3)	0 (0.0)	54 (100)	54	23 (42.6)	Open dorm
Prison 4	41	3,419	2,153 (63.0)	15 (0.7)	2,138 (99.3)	2,128	371 (17.4)	Both
Prison 5	34	1,565	740 (47.3)	4 (0.5)	736 (99.5)	736	99 (13.5)	Cells
Prison 6	NA	3,327	92 (2.8)	0 (0.0)	92 (100)	92	0 (0.0)	Open dorm
<b>Colorado</b>								
Prison 1	28	2,340	2,296 (98.1)	1 (<0.01)	2,295 (99.9)	2,262	375 (16.6)	Cells
Prison 2	5	1,704	299 (17.5)	0 (0.0)	299 (100)	297	35 (11.8)	Cells
<b>Ohio</b>								
Prison 1	7	497	442 (88.9)	0 (0.0)	442 (100)	442	94 (21.3)	Both
Prison 2	12	2,521	2,510 (99.6)	0 (0.0)	2,510 (100)	2,510	2,179 (86.8)	Both
Prison 3	7	2,024	Unknown	Unknown	1,846	1,846	1,476 (80.0)	Both
<b>Orange County, California</b>								
Jail 1	34	3,167	1,002 (31.6)	0 (0.0)	1,002 (100)	1,002	374 (37.3)	Both
<b>Texas</b>								
Jail 1	27	7,800	1,070 (13.7)	0 (0.0)	1,070 (100)	1,070	519 (48.5)	Both
<b>Total</b>	—	<b>41,454</b>	<b>16,392 (39.5)</b>	<b>231 (1.6)</b>	<b>16,161 (98.6)</b>	<b>16,024</b>	<b>7,597 (47.4)</b>	—

\* Mass testing was defined as offering SARS-CoV-2 testing by reverse transcription–polymerase chain reaction (RT-PCR) to all incarcerated or detained persons in at least one housing unit of a jail or prison, irrespective of presence or history of symptoms.

<sup>†</sup> The first COVID-19 case in each facility was identified using a symptom-based approach.

<sup>‡</sup> The highest number of incarcerated or detained persons in the facility on a single day during the mass testing event.

<sup>¶</sup> Some facilities offered SARS-CoV-2 testing to incarcerated or detained persons in all housing units. Others offered testing in selected housing units based on criteria including whether units had already identified cases, housed a large number of persons with underlying health conditions, or housed persons who were assigned to work details that required movements across the facility (e.g., food or laundry service).

\*\* Open dorm units in these facilities housed from 63 to 216 persons in one space where they could interact freely. Cell-based units were comprised of locked cells housing from one to eight persons each.

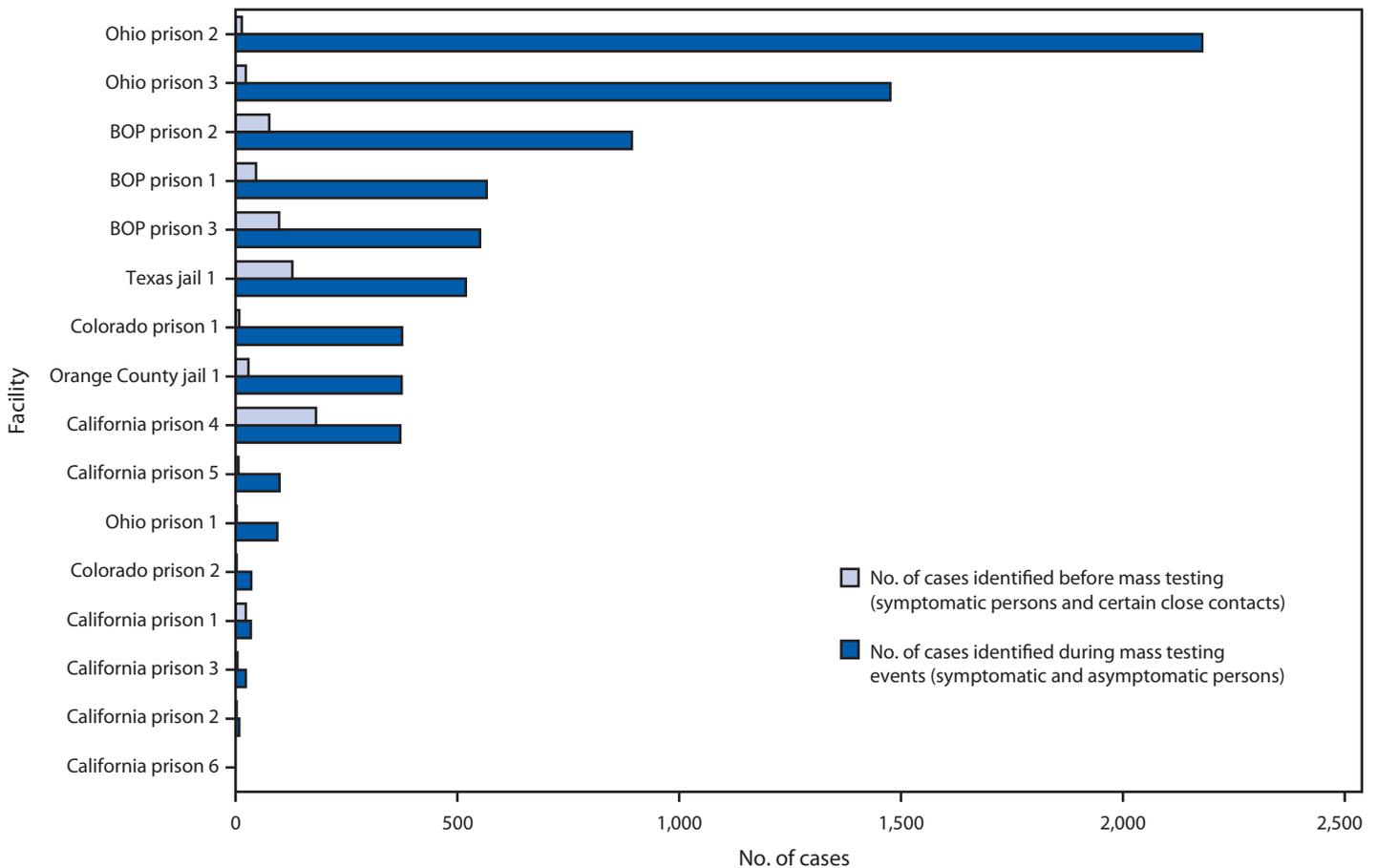
†† The Federal Bureau of Prisons (BOP) has jurisdiction over federal prisons across the United States. The three BOP facilities with data presented here are located in three different states.

This analysis can inform testing practices in correctional and detention facilities in at least three areas. First, testing staff members at regular intervals, regardless of symptoms, could become an important part of facilities' COVID-19 prevention and mitigation plans, in collaboration with relevant stakeholders, including labor unions. In this study, more than half of the facilities identified their first case among staff members, consistent with previous CDC findings that staff members can introduce the virus into correctional and detention environments (9). Second, in descriptive analyses, the median prevalence of SARS-CoV-2 was nearly three times higher in dormitory-based housing units (42.6%) than in cell-based units (14.6%), suggesting that housing configuration might contribute to transmission. Further study is warranted to determine whether more frequent testing could reduce transmission in dormitory-based housing. Third, these mass testing events

occurred 2–41 days after identification of the facilities' first cases. Additional studies should examine whether timing of mass testing influences its effectiveness in facilitating outbreak containment. In a study involving five health department jurisdictions that conducted facility-wide testing in 88 nursing homes that had already identified at least one case, an estimated 1.3 additional cases were identified for each additional day between identification of the first case and completion of facility-wide testing, indicating that facility-wide testing early in an outbreak can be an effective mitigation strategy (10).

The findings in this report are subject to at least six limitations. First, these facilities represent a convenience sample and are not representative of all U.S. correctional and detention facilities. Second, because facilities' decisions to conduct mass testing might be based on differing population characteristics, epidemiologic factors, and policy considerations, statistical

**FIGURE. COVID-19 cases identified among incarcerated or detained persons during mass testing events (April–May) and through symptom-based testing (January–April) in 16 prisons and jails — six U.S. jurisdictions, 2020**



**Abbreviations:** BOP = Federal Bureau of Prisons; COVID-19 = coronavirus disease 2019.

significance testing was not performed. Third, the number of cases identified through mass testing might be higher in facilities where mass testing occurred closer to the peak of an outbreak (a factor that could not be determined with available data), or in facilities that tested a higher proportion of their population. Fourth, data regarding symptoms reported during mass testing were unavailable, preventing calculation of the percentage of persons with positive test results who were symptomatic. Fifth, cases among staff members identified before mass testing are likely underestimated because most facilities relied largely on self-reporting. Finally, it is uncertain whether the housing unit where a person with COVID-19 was tested was the location where exposure occurred.

Challenges in practicing physical distancing and other prevention strategies within correctional and detention facilities place persons in these settings, many of whom have chronic diseases, at high risk for SARS-CoV-2 exposure. This analysis

demonstrates that mass testing irrespective of symptoms, combined with periodic retesting, can identify infections and support prevention of widespread transmission in correctional and detention environments. Further research is warranted to refine strategic testing approaches that individual facilities can implement, based on local needs and resources, to contribute to COVID-19 mitigation.

### Acknowledgments

State and local departments of health and departments of corrections; Federal Bureau of Prisons; affected facilities contributing data; Jeffery Allen, Thomas Dixon, Cora Hoover, Julie King, Heather Scobie.

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## References

## Summary

## What is already known about this topic?

SARS-CoV-2 outbreaks in correctional and detention facilities are difficult to contain because of population-dense housing and limited space for medical isolation and quarantine. Testing in these settings has often been limited to symptomatic persons.

## What is added by this report?

Mass testing in 16 U.S. prisons and jails found SARS-CoV-2 prevalence ranging from 0%–86.8%, a median 12.1-fold increase over the number of cases identified by earlier symptom-based testing alone. Median prevalence was three times higher in dormitory-based than in cell-based housing.

## What are the implications for public health practice?

In correctional and detention facilities, broad-based SARS-CoV-2 testing provides a more accurate assessment of disease prevalence than does symptom-based testing and generates data that can potentially help control transmission.

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<sup>1</sup>CDC; <sup>2</sup>Emory University Rollins School of Public Health, Atlanta, Georgia; <sup>3</sup>Morehouse School of Medicine, Atlanta, Georgia; <sup>4</sup>Federal Bureau of Prisons, Washington, DC; <sup>5</sup>California Correctional Health Care Services; <sup>6</sup>Orange County Health Care Agency, Santa Ana, California; <sup>7</sup>Colorado Department of Public Health and Environment; <sup>8</sup>Colorado Department of Corrections; <sup>9</sup>Ohio Department of Health; <sup>10</sup>Epidemic Intelligence Service, CDC; <sup>11</sup>Ohio Department of Rehabilitation and Correction; <sup>12</sup>Brown University Department of Family Medicine, Providence, Rhode Island; <sup>13</sup>Harris County Sheriff's Office, Houston, Texas; <sup>14</sup>Houston Health Department, Houston, Texas.

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## Weiss, Rachel

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**From:** Laurie Little Dog <laurielittledog@gmail.com>  
**Sent:** Friday, August 21, 2020 10:07 AM  
**To:** Wolken, Cynthia; Hansen, Jennie; Michael, Reg; Salmonsens, Jim; Weiss, Rachel; Winner, Connie; Boutilier, Sara; McGillis, Cynthia McGillis-Hiner  
**Cc:** Usher, Barry; Casey.Knudsen@mtleg.gov; Diane Sands; Frank.Fleming@mtleg.gov; Jasmine Krotkov; Jen Gross; Johnesp2001@yahoo.com; Katharin Kelker; Sen. Bryce Bennett; Regier, Keith; robforhd81@gmail.com; steve.fitzpatrick@mtleg.gov; Citizens Advocate  
**Subject:** [EXTERNAL] Public comment for MT Corrections Leadership: CDC finds testing only "symptomatic" inmates is Not advised (Please adjust DOC Covid response plan) \*New CDC study attached  
**Attachments:** CDC study of Covid in 16 jails.pdf

Correctional facilities that resisted [mass coronavirus testing \[kval.com\]](http://kval.com) for inmates erred in their decision to only test inmates with symptoms, leading to large initial undercounts, a recent study by the Center for Disease Control and Prevention suggested.

Only testing inmates with coronavirus symptoms "likely underestimated" the number of infected prisoners, the study found. Symptom-based testing also runs the risk of inmates hiding symptoms out of fear of being removed from the regular prison population and being shunned by other inmates.

The study also suggested that multiple re-testing of inmates after initial negative tests could help curb transmission rates.

The above is an excerpt from:

<https://abcnews.go.com/Health/wireStory/cdc-study-suggests-inmates-tested-mass-72505403> [\[abcnews.go.com\]](http://abcnews.go.com)

Evidence presented should compel Montana Department of Corrections to take swift and immediate action to shift their present Covid-19 response plan in the following ways:

- 1) restrict admission of all new inmates to a single facility,
- 2) mass test everyone regardless of symptoms, (do not wait for people to display the presence of symptoms)
- 3) Practice continuous retesting inmates *after* initial negative findings
- 4) adopt strict quarantining until tests results become available.

We encourage and support MDOC adhering to the new conclusions coming out of the CDC in their (attached) 5 page study. Montana DOC should not wait not for an inmate or staff to first "show symptoms" and then wait for that person to produce a Covid+ result. The current approach used by Montana Department of Corrections is now proven to be an error in Covid-19 response that is no longer a 'best practice. Shifts in the proactive monitoring and management of this situation should be taken seriously and begin immediately.

Thank you in advance for considering this new evidenced based research, conducted by the CDC.

Signed,  
Laurie Little Dog

## 'Form of erasure:' Indigenous inmates may be misrepresented in 2020 census, activist says

**Nora Mabie** Great Falls Tribune

Published 6 am MT August 26, 2020 | Updated 10:26 am MT August 27, 2020

Before the Montana State Prison restricted visitation due to COVID-19, Laurie Little Dog, 38, made frequent visits to the facility in Deer Lodge.

Her husband has been incarcerated in Montana since 2017, and Little Dog advocates for him and other inmates.

She regularly attends Prison Issues Board meetings and Law and Justice Interim Committee meetings, and she has formed "alliances" with other family members of people who are incarcerated in the hours they spend together waiting for visitation.

After completing her own census form, something dawned on Little Dog — in her visits to the prison, no one spoke of the census.

Little Dog traces her maternal lineage to Jicarilla Apache and Ute Indian tribes and her husband is Blackfeet. Aware that accurate census counts are critical in apportioning federal funds to tribes, she wondered how Native American inmates were counted.

"When I asked inmates, they had no idea," she said. "So, I contacted the Department of Corrections, which said the census was taken care of, but when I asked inmates if they had ever declared a tribal name, they said no."

"I just kept asking questions and getting answers I didn't like," she said. "People who are incarcerated are vulnerable when it comes to government protections. They don't have agency to challenge prison policy or mistreatment; they can't really launch a legal fight from a locked cell. So, for me, it's a moral obligation to carry this fight for them."



Native Rights Activist Laurie Little Dog is urging the Montana Department of Corrections to fairly and accurately count its Indigenous inmate population in the 2020 census. Courtesy of Laurie Little Dog



Laurie Little Dog frequently visits her husband who is incarcerated at the Montana State Prison in Deer Lodge.  
SKYLAR RISPENS/GREAT FALLS TRIBUNE

Native Americans are overrepresented in Montana's criminal justice system. Though they comprise 6.7% of the state's population, as of April 28, they accounted for 21.3% of the inmate population in Montana DOC facilities.

If Indigenous people who are incarcerated are misrepresented in the 2020 census, activists argue the inaccurate data will not only misinform lawmakers and the public but also further marginalize Native Americans through erasure.

## **How did the Department of Corrections submit 2020 census data on behalf of inmates?**

Jails and prisons are classified by the census as "group quarters," or places where people live or stay in a group living arrangement.

Carolynn Bright, communications director of the Montana DOC, wrote in an email that the department submitted inmate information to the U.S. Census Bureau by extracting it from their Offender Management Information System (OMIS) on April 28.



OMIS is an electronic system used by the department to collect and monitor information on all adult offenders. Data in OMIS is compiled while an offender is under supervision and can be used to determine the type, length and location of an offender's incarceration, according to a 2014 audit to the Montana Legislature.

According to Bright, the DOC received instructions from the census that "tribal affiliation was an optional category, and because tribal information is unverified, the department should not submit it."

"The DOC has learned that tribal affiliation is important to the allocation of resources for Native Americans and the department has received permission from census staff to resubmit its census information, including tribal affiliation," she wrote.

Tribal programs, health care, education and disaster relief are funded based on census data, so an inaccurate count could potentially hurt Indigenous communities for the next decade.

DOC Director Reginald Michael said in a statement that the agency "is committed to providing the most accurate and representative information regarding the populations in our custodial environments for the 2020 census... After further inquiry, we have decided it would be most appropriate to revise our submission, to include all tribal affiliation data that is maintained in our offender management information system. We will ensure that is achieved by (the Aug. 26) deadline."



However, Little Dog said the decision to extract information from OMIS or other DOC data and resubmit to the census "is dangerous" and "not a solution."

Little Dog said that culling information from OMIS for census purposes is harmful, as inmates were unaware that OMIS information would be used for the census. She added that OMIS is inconsistent because it does not require or track if Native inmates affiliate with a specific tribe.

"Not all tribal information is in there because not all inmates are asked," she said.

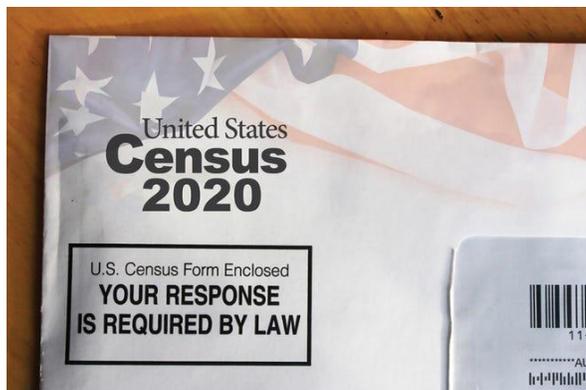
Little Dog said people who are incarcerated may also self-identify differently in OMIS than they would in the census.

"Race is weaponized in prison. That's true everywhere. There are survival reasons why someone may identify differently or code-switch when they enter the criminal justice system," she explained.

## Why does this matter?

Little Dog said the practice of identifying Indigenous people solely as "Native American," rather than recognizing their specific tribal affiliations dates back to colonialism.

"The idea that an Indian is an Indian is a pan-Indian belief. Tribes are diverse linguistically,



culturally and spiritually. Pre-America matters, and the roots that exist today are important. To ignore them is a form of erasure," she said.

Because different tribes observe different traditions and cultural practices, Little Dog said tribal affiliation information could also better inform which traditions the DOC allows inmates to observe.

Accurate census data can also inform future policy.

As Native Americans are overrepresented in the criminal justice system, Little Dog said an inaccurate census count would be an "underrepresentation of an overrepresentation."

"If more incarcerated Natives are counted as Natives and are equally able to write in the name of their tribe or tribes, it's more likely that the DOC would have culturally relevant programs specifically targeted for them, which could improve recidivism," she said referring to the rate at which formerly incarcerated people return to jail or prison.



Native Americans are overrepresented in Montana's criminal justice system. Though they comprise 6.7% of the state's population, as of April 28, they accounted for 21.3% of the inmate population in Montana Department of Corrections facilities. *Getty Images*

But the accurate count won't just influence policies and data, Little Dog argues the act of enumeration also "validates (inmates') personhood and sense of self-worth," which can be especially meaningful when incarcerated.

"Let's face it — there's a lot of people that will die in prison, and if this is their final mark on who they are, that is not fair. Let them claim their own identity, and let that be the final say," she said.

## Mounting political pressure

Colleen McCarthy, partnership specialist for the U.S. Census Bureau, said at the State-Tribal Relations Committee meeting on Monday that the Bureau "escalated this issue and is trying to get an answer and trying to help get this resolved."

At the same meeting, Jason Smith, director of the Governor's Office of Indian Affairs, said he was in conversation with the DOC's Michael and was "trying to figure out how they could resubmit the information."



United States Senator Jon Tester wrote in a statement Tuesday that his "office is looking into" how the Montana Department of Corrections submitted 2020 census information. *Alex Brandon, AP*

"I don't think there's resistance," he said of the DOC. Smith and McCarthy both could not be reached for further comment.



State-Tribal Relations Committee Chair Sen. Jason Small, R-Busby, announced on Monday he would write a letter to the DOC advocating for tribal members to be counted appropriately.

Sen. Jon Tester, D-Mont., wrote in a statement Tuesday that his "office is looking into this."

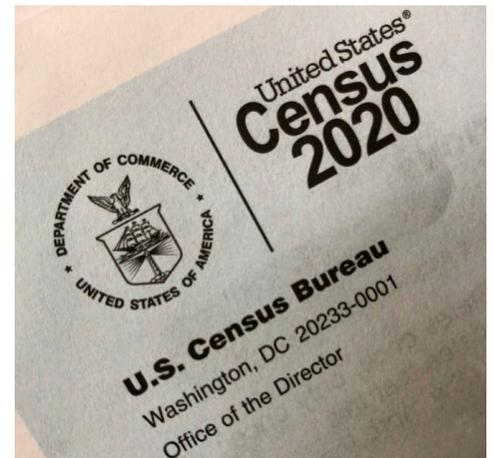
"Getting a fair, accurate census count is critical for Montana and especially for our Native American communities. That's why I am pushing for Congress to block the Census Bureau's decision to end census collection efforts a month earlier than they previously planned and to make sure we uphold our constitutional obligation to ensure a complete count in Indian Country—and I strongly urge my colleagues to join me in this fight," he wrote.

## Possible solutions:

To fairly and accurately count Indigenous people who are incarcerated, Little Dog is urging the DOC to distribute census forms to every inmate.

Even after the Aug. 26 group quarters enumeration census deadline has passed, Little Dog hopes tribes will dispute the count.

"We will need tribes' support, tribal leaders' support, and it would be really freaking cool if we could get the support of the DOC," she said. "I would love to see the DOC work nation-to-nation by modeling a well-run system or developing a custom system for enumeration," she said.



*Nora Mabie covers Indigenous communities for the Great Falls Tribune. She can be reached at [nmabie@greatfallstribune.com](mailto:nmabie@greatfallstribune.com). Follow her on Facebook [@NoraMabieJournalist](https://www.facebook.com/NoraMabieJournalist) or on Twitter [@NoraMabie](https://twitter.com/NoraMabie).*

## Weiss, Rachel

---

**From:** Laurie Little Dog <laurielittledog@gmail.com>  
**Sent:** Friday, August 28, 2020 9:47 AM  
**To:** Weiss, Rachel  
**Cc:** Casey.Knudsen@mtleg.gov; steve.fitzpatrick@mtleg.gov; Usher, Barry; Katharin Kelker; Jen Gross; Jasmine Krotkov; Johnesp2001@yahoo.com; Diane Sands; robforhd81@gmail.com; Frank.Fleming@mtleg.gov; Regier, Keith; Sen. Bryce Bennett  
**Subject:** [EXTERNAL] For Public Comment to LJIC: Montana DOC denies Native inmates equal right to write-in name of tribe/ tribal affiliation in 2020 Census  
**Attachments:** image003.png; Form of Erasure Native inmates denied the right to list tribe name in US Census.pdf

The Department of Corrections' Public Information Officer continues to disseminate inaccurate information to Native constituents, inmate families, the public and the press about this. The situation remains unresolved.

I encourage all members of the Law and Justice Interim Committee to please inquire with Carolyn Bright about this matter and take note of DOC's response. Carolyn Bright's contact information is:

**CAROLYNN BRIGHT**

COMMUNICATIONS DIRECTOR

DIRECTOR'S OFFICE | [carolynn.bright@mt.gov](mailto:carolynn.bright@mt.gov)

Office: 406-444-0409 | 5 S. Last Chance Gulch

PO Box 201301 | Helena, MT 59620



Reference for LJIC review:

<https://www.greatfalls Tribune.com/story/news/2020/08/26/montana-indigenous-inmates-counted-2020-census-department-corrections/3413324001/> [greatfalls Tribune.com]

A PDF of the article is attached for your convenience.

I request that this PDF please be uploaded to the LJIC legislative website.

Thank you,  
Laurie Little Dog

## Weiss, Rachel

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**From:** LetThemComeHome LetThemComeHome <letthemcomehome@gmail.com>  
**Sent:** Sunday, September 13, 2020 9:31 AM  
**To:** Weiss, Rachel; Usher, Barry; Jen.Gross@mtleg.gov; senatorsands@gmail.com; Regier, Keith; bennettformontana@gmail.com; robforhd81@gmail.com; Frank.Fleming@mtleg.gov; Johnesp2001@yahoo.com; Jasmine.Krotkov@mtleg.gov; Kathy.Kelker@mtleg.gov; steve.fitzpatrick@mtleg.gov; casey.knudsen@mtleg.gov  
**Subject:** [EXTERNAL] LJIC Public Comment: #LetThemComeHome provides background and asks for continued increases in Oversight  
**Attachments:** LetThemComeHome collage.pdf; News Coverage LetThemComeHome from 3 News outlets NBC, YPR and GFT.pdf; Infographics for LetThemComeHome.pdf

Dear Law and Justice Interim Committee:

As the interim meetings for 2020 wind down, the outbreaks of Covid-19 in Montana Detention facilities are at the threshold of containment. Some facilities are already overcome. We all know that unjust fatalities will result from the rapid-spread conditions of Montana jails and prisons. The People of Montana have repeatedly called upon Montana's Law and Justice Interim Committee and those in power to tangibly intervene on the situation. The April 1st Executive order and the DOC's management plan for Covid-19 have not been sufficient, nor have they been followed.

\*We ask that you please review the attached materials for awareness of the efforts that have been happening across Montana in support of legislative and gubernatorial intervention. Masses of people in Billings, Missoula, Bozeman, Great Falls, Polson, Helena, and throughout the state have joined forces on this humanitarian crisis that remains with us beyond the end of the interim and into the Legislative session. Please do not allow the dates of the legislative calendar and elections to absolve us of the responsibility to provide oversight, monitor to act to save human life.

Attached, you will find news coverage, photo collage and infographics that document the growing efforts of what Montanans need and continue to appreciate the Law & Justice Interim Committee's support on.

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#LetThemComeHome first launched as a "protest-in-place" on social media as a means to pressure Governor Bullock the Montana legislature to immediately reduce the prison populations and implement an Emergency Management plan for how the Montana Department of Corrections would mitigate the spread of COVID-19 in and between Correctional facilities throughout the state.

With the influx of outbreaks at detention facilities throughout the State we chose to take what used to be a protest-in-place to Capitol Hill and specifically to the Governor's residence not just to bring awareness, but to demand action.

#LetThemComeHome marched from State Capitol to the Governor's residence Wednesday carrying signs and chanting with a car caravan, as escort.

Later in the evening, #LetThemComeHome organizers returned to the Governor's house with hand drums, singing and having a one-sided dialogue with the Governor about the need for immediate intervention to protect incarcerated individuals from COVID-19.





#LETTHEMCOMEHOME



# "It's Like Sardines:" Advocates Call For Health Protections For Inmates

By EDITOR • SEP 3, 2020



*Ashley Moon and Clemente Arciga rally at the governor's residence on Sept. 2, 2020 to demand Gov. Steve Bullock institute additional coronavirus-related protections for correctional inmates.*

KEVIN TREVILLYAN / YELLOWSTONE PUBLIC RADIO

Originally published on September 3, 2020 5:50 pm

Advocates for Montana inmates say their fears of COVID-19 outbreaks within correctional facilities are coming true. They're demanding state officials take bigger steps to prevent the novel coronavirus from spreading further.

Signs in hand, organizers stood outside the governor's residence in Helena on Wednesday afternoon denouncing what they call inaction on behalf of the incarcerated.

In April, Gov. Steve Bullock asked the Board of Pardons and Parole to consider releasing vulnerable inmates who don't pose a safety risk early to reduce the chance of COVID-19 outbreaks in correctional facilities, but advocates said it wasn't enough.

Now, LetThemComeHome organizer and ACLU of Montana policy associate Zuri Moreno says Montana has hit a breaking point. State officials halted the transfer of inmates from three county jails last week after more than 90 inmates and staff tested positive for COVID-19.

"We've been talking about it in a what-if scenario, like what if COVID gets into a county jail, and we're no longer in that scenario. It's here, and we need to discuss it and take action," Moreno said.

#LetThemComeHome advocates rally at the Montana State Capitol on Sept. 2, 2020 to urge state officials to release vulnerable inmates in light of recent COVID-19 outbreaks at county jails.



Kevin Trevellyan /  
Yellowstone Public Radio

In late August, the Department of Corrections also reported a positive case at Montana Women's Prison and roughly two dozen positive cases at other third-party contracted centers.

Advocates want the state to provide inmates more personal protective equipment and cleaning supplies. Organizers want the Department of Corrections to immediately reduce inmate populations by releasing those who are immunocompromised, over 60 years old or eligible for parole within the next year.

The Montana Supreme Court declined a similar petition in April.

Organizers also set up signs outside the Montana State Capitol on Wednesday and live streamed their requests on social media.

Though organizer Laurie Little Dog acknowledged the need to preserve public safety, she says counties should alleviate jail overcrowding by ending pre-trial confinement for nonviolent charges like petty theft and marijuana possession.

"I don't think that's justifying you being thrown into a jail situation that's COVID-positive," Little Dog said.

Clemente Arciga works with former inmates transitioning back into society. He says prisoners are struggling with cramped facilities and coronavirus-related restrictions on movement. Inmates have reported that it's impossible to socially distance in spaces designed for fewer people.

"It's like sardines, just thrown in there together. Nowhere to move, nowhere to go. People in prison are still humans, you know," Arciga said.

Asked for comment, Bullock's office referred to his April directive. A Department of Corrections spokesperson referred to a Tuesday announcement that the department will spend \$1 million in coronavirus relief funds on equipment to mitigate health risks in state-owned and contracted facilities.

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## Dome Lights (excerpt)

Great Falls Tribune

Phil Drake

*Published 1:14 p.m. MT September 5, 2020 Updated*

*From the dome to your home. Ramblings, mutterings, keen observations and things you ought to know out of Helena from the mind of Phil Drake.*

... **#LET THEM COME HOME:** Some protesters in a group known as "#LetThemComeHome" stood on the south lawn of the state Capitol a few days ago.

They want the governor to reduce the prison populations, and as organizers said, to implement an Emergency Management plan for how the Montana Department of Corrections (DOC) would mitigate the spread of COVID-19 in correctional facilities statewide.





"With the influx of outbreaks at detention facilities throughout the state we chose to take what used to be a protest-in-place to the Capitol Hill and specifically to the governor's residence not just to bring awareness, but demand action," Laurie Little Dog, an organizer said.

She said they would like officials to immediately release people who are immuno-compromised, those over 60, eligible for parole within the next year and those being held pretrial who are not "deemed a threat" to the community.

She told me in an email they then marched from Capitol to the governor's residence carrying signs and chanting. And returned with hand drums, singing and "having a one-sided dialogue" with the governor about the need for immediate intervention to protect incarcerated people from COVID-19.

A few days ago I got an email from the state saying Department of Corrections has bought or are buying about \$1 million in equipment to help mitigate the risk of COVID-19 at its state-owned and contracted facilities.

This includes whole-room disinfectant machines; standard disinfectant machines; telemedicine units; infrared, no-contact thermometers; handwash stations; remote blood pressure stations; transport vehicles for moving offenders among facilities (capable of isolating driver from patients); small transport vehicles for moving offenders from units to infirmary (capable of isolating driver from patients); and more, the DOC said in a news release.

"These purchases will help us to further reduce the possibility of the virus entering our facilities," said Connie Winner, administrator of the DOC's Clinical Services Division.

I was moving forward with this story, and even got a comment from the American Civil Liberties Union of Montana in which a spokeswoman noted "the ACLU has taken a number of steps to urge the state to take action, including letters to the (governor) and also a petition to the Supreme Court.

We do not think enough has been done to protect those in Montana's prisons and jails from COVID-19," she said.

Like I said,I was working on a story but then the wheels started coming off the cart: The number of COVID-19 cases kept rising at the Cascade County Detention Center, which keeps some inmates for the state and then the Sanction, Treatment, Assessment, Revocation and Transition Center in Anaconda, which contracts with the state, had 45 staff and offenders test positive.

This is the kind of story that those who know me know I describe a "fluid," meaning it's in movement. And I need a little more time, given with all the other stuff going on.

So stay tuned ...

*Dome Lights appears Sunday, unless the villagers catch me. Email me at [pdrake@greatfallstribune.com](mailto:pdrake@greatfallstribune.com) or call 406-231-9021. I'm based in Helena. Mail me at P.O.Box 1601, Helena, MT 59624.*

# #LetThemComeHome

## WHO ARE WE?

We are a group of Indigenous and Latinx organizers raising awareness around criminal justice issues. Each member of our group is a justice-involved community member.

#LetThemComeHome is an action campaign that began in March in response to the Covid-19 pandemic.

## WHAT ARE WE DOING?

Since March, we have organized community members across the state to contact Governor Bullock and Montana DOC Director Michael, urging them to develop and implement plans to protect the people in our prisons and jails from COVID19.

We have also sent emails and made calls to county jail staff, county attorneys, county commissioners, city council members, and sheriff's offices demanding action at the local level.

## WHY DOES THIS MATTER?

Across the nation, Covid-19 infection rates are up to 5.5 times higher among prisoners than the general population. The death rate is also higher. The total # of inmates who have died in the US is around 930, with over 100k infected.

As of August 31, there are over 100 reported positive cases in at least five county jails, as well as cases in pre-release centers, multiple DOC facilities, and state mental health facilities. We don't know how many have been infected, as accurate data is not being released in a timely manner.

## SUPPORT & TAKE ACTION

### CONTACT OFFICIALS

Call and email the following people to demand action:

Governor Bullock  
406-444-3111  
(toll free 855-318-1330)  
governor@mt.gov  
citizensadvocate@mt.gov

Dept. of Corrections Director Michael  
406-444-4913  
Reginald.Michael@mt.gov

### SHARE INFORMATION

- Follow these groups and share info:
  - Montana Women Vote
  - ACLU of Montana
  - Disability Rights Montana
  - Welcome Back
- Talk to your friends and family.
- Call your local city council and county commissioners.
- Register to vote by October 26.

### SUPPORT OUR WORK

Get in contact to learn more about volunteering, organizing in your community, or donating to support organizers and events.

letthemcomehome@gmail.com

**EVERYONE DESERVES  
SAFETY FROM COVID-19**

## WE DEMAND ACTION NOW!

1

### END NEEDLESS ARRESTS AND DETENTION

Local health departments, counties, and cities need to coordinate to end unnecessary arrests and detentions. Too many county jails and detention facilities are overcrowded. We demand that counties end any new incarceration and stop issuing warrants for revocations from supervision, failure to appear, or for unpaid fines or fees.



2

### REDUCE INCARCERATED POPULATIONS

Social distancing is impossible in incarceration facilities. We demand that local and statewide officials immediately take steps to reduce the number of people in prisons, jails, and other detention facilities. This includes immediately releasing people who are immunocompromised, those over 60 years of age, those eligible for parole within the next year, and those being held pretrial who are not "deemed a threat" to the community.



3

### PROBATION & PAROLE REQ WAIVED

The Board of Pardon and Parole needs to temporarily waive requirements (e.g. treatment, pre-release, and others). The few people who have been granted parole are being denied release because of these requirements.



4

### PROVIDE PPE

Since social distancing is nearly impossible, people who are incarcerated need to be allowed to wear masks and be housed in places with proper ventilation. Facility staff need to ensure that everyone has access to running water for hand washing, clean masks, and personal hygiene products.



5

### INFORMATION & CARE TO INMATES

Facility staff need to provide regular and accurate information to incarcerated people about Covid-19 safety precautions and early signs of infection. If someone gets sick, they should be provided immediate care, not placed in an isolation cell or left in contact with others.



6

### PUBLIC TRANSPARENCY

Facility staff and statewide electeds need to provide immediate and regular accurate data on infections in jails, prisons, and other detention facilities. As well as provide regular information regarding what preventative measures are occurring in facilities.

7

### HALT TRANSFERS

All transfers between facilities needs to be halted immediately. This includes transfers of incarcerated people and facility staff.



**PROTECT INCARCERATED  
PEOPLE FROM COVID-19**

## Weiss, Rachel

---

**From:** LetThemComeHome LetThemComeHome <letthemcomehome@gmail.com>  
**Sent:** Sunday, September 13, 2020 9:33 AM  
**To:** Weiss, Rachel; Usher, Barry; Jen.Gross@mtleg.gov; senatorsands@gmail.com; Regier, Keith; bennettformontana@gmail.com; robforhd81@gmail.com; Frank.Fleming@mtleg.gov; Johnesp2001@yahoo.com; Jasmine.Krotkov@mtleg.gov; Kathy.Kelker@mtleg.gov; steve.fitzpatrick@mtleg.gov; casey.knudsen@mtleg.gov  
**Subject:** [EXTERNAL] Re: LJIC Public Comment: #LetThemComeHome provides background and asks for continued increases in Oversight  
**Attachments:** LetThemComeHome on NBC.pdf

On Sun, Sep 13, 2020 at 9:30 AM LetThemComeHome LetThemComeHome <[letthemcomehome@gmail.com](mailto:letthemcomehome@gmail.com)> wrote:

Dear Law and Justice Interim Committee:

As the interim meetings for 2020 wind down, the outbreaks of Covid-19 in Montana Detention facilities are at the threshold of containment. Some facilities are already overcome. We all know that unjust fatalities will result from the rapid-spread conditions of Montana jails and prisons. The People of Montana have repeatedly called upon Montana's Law and Justice Interim Committee and those in power to tangibly intervene on the situation. The April 1st Executive order and the DOC's management plan for Covid-19 have not been sufficient, nor have they been followed.

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With the influx of outbreaks at detention facilities throughout the State we chose to take what used to be a protest-in-place to Capitol Hill and specifically to the Governor's residence not just to bring awareness, but to demand action.

#LetThemComeHome marched from State Capitol to the Governor's residence Wednesday carrying signs and chanting with a car caravan, as escort.

Later in the evening, #LetThemComeHome organizers returned to the Governor's house with hand drums, singing and having a one-sided dialogue with the Governor about the need for immediate intervention to protect incarcerated individuals from COVID-19.

# Movement aims to help Montana inmates during pandemic

by Shannon MacNeil

Friday, May 22nd 2020



People are using "#LetThemComeHome" to bring awareness to what inmates are going through during the pandemic. (Photo: Clemente Arciga)

MISSOULA, Mont. — Signs reading “#LetThemComeHome” are being posted around Missoula in hopes of helping those inside Montana’s prisons.

“We’re not necessarily asking to let everybody out,” explained Clemente Arciga, with the organization Welcome Back.

According to the [Montana Department of Corrections website](#), they have confirmed two coronavirus cases among inmates and three cases among staff.

“The family members in prison are reaching out saying they don’t have proper gloves or cleaning supply to clean their bathrooms or their living areas,” said Arciga.

Gov. Steve Bullock [issued a directive](#) on how Montana prisons should handle the pandemic.

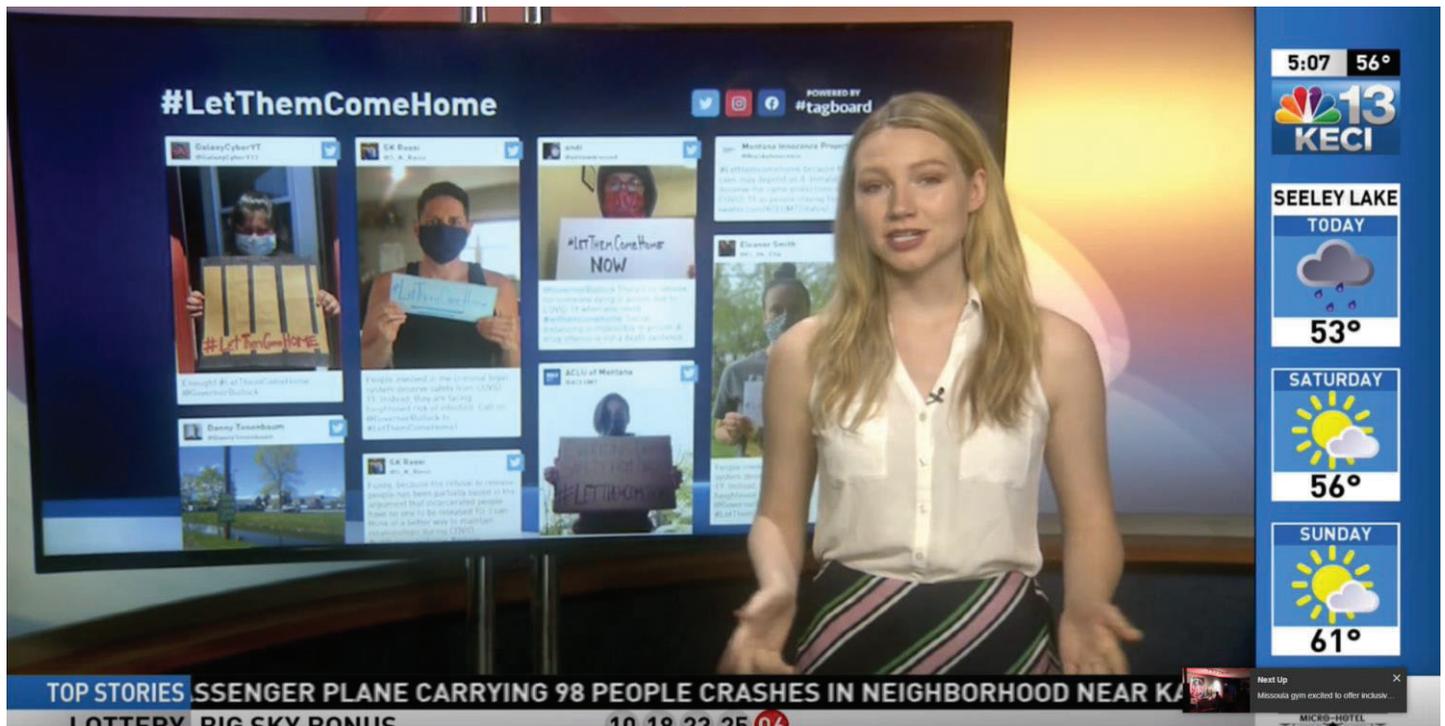
Welcome Back and others around the state say the DOC isn't following through on this part of the directive: "The Board of Pardons and Parole will also consider early release for older inmates, inmates who have medical conditions that make them high risk, pregnant inmates, and inmates nearing their release date -- but only where the Board determines that release does not pose a public safety risk and that inmates can adequately receive medical care and meet supervision requirements in the community."

Arciga listened in on a meeting with the Montana DOC and told us, "They looked at 190 cases, and out of those 190 cases they only let out three."

#LetThemComeHome is a group effort by organizations around the state. People are posting photos with masks on, using the hashtag and tagging Bullock to try to get his attention.

"Let them come home -- it's just that, it is the voice for those who are incarcerated that can't speak for themselves," said Arciga.

We reached out to the Montana Department of Corrections and the governor's office for comment but haven't heard back.



**From:** [Andrea Melle](#)  
**To:** [Weiss, Rachel](#)  
**Subject:** [EXTERNAL] Law and Justice meeting Comments submission  
**Date:** Friday, September 11, 2020 12:34:42 PM

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Law and Justice Interim Committee  
Comments for meeting 9/14/2020

Thank you all for all your hard work this interim session and for listening to what people had to say. My comments are for Crossroads Correctional Center (CCC). Crossroads contract is up 7/2021. As I hope you have all realized, Crossroads/CoreCivic seems to lack much oversight from the DOC. They lack programs other facilities offer, staff shortages (constant staff turnover in mass numbers) make the place unsafe for inmates and staff, medical is a joke, inmates get locked down for hours, and it has been exposed that they do not want to be held accountable for their actions as that is why they tried to have inmates sign waivers to get mask and COVID tests, they have former CoreCivic staff being contract monitors for the DOC/Montana which is a conflict of interest, the inmates lack video calls and the chances of them getting email access like other facilities are looking into is slim at best, etc. Many other states are ending their contracts with them for a variety of reasons. See some articles below:  
<https://oklahomawatch.org/2020/07/16/oklahoma-ends-contract-with-troubled-private-prison-in-cushing/> [oklahomawatch.org]

[https://www.wsmv.com/news/corecivic-intends-to-split-from-nashville/article\\_15bb3068-bff9-11ea-b4f2-8f783c29283b.html](https://www.wsmv.com/news/corecivic-intends-to-split-from-nashville/article_15bb3068-bff9-11ea-b4f2-8f783c29283b.html) [wsmv.com]

<https://www.timesfreepress.com/news/local/story/2020/jul/08/private-jail-company-corecivic-pulling-out-co/527070/#/questions> [timesfreepress.com]

<https://www.insidernj.com/press-release/elizabeth-detention-center-property-owner-announces-plans-cut-ties-profit-detention-company-corecivic/> [insidernj.com]

There should also be major concern as a candidate for Governor has major stock in CoreCivic and continues to purchase more as recently as June 2020 and if was put in the position to negotiate a new contract or to end this contract, there would be a major conflict of interest as he is making money off of our fellow Montanans in Crossroads and would probably like to continue to.

<https://legacy.tyt.com/2018/07/12/rep-gianforte-bought-private-prison-stock-as-trump-immigration-policy-boosted-its-profits/> [legacy.tyt.com]

<https://themontanapost.com/blog/2020/07/29/gianforte-continues-to-invest-in-private-prisons-hed-oversee-as-governor-chinese-companies-that-misled-on-covid-19/>  
[themontanapost.com]

I pray that you keep the inmates at Crossroads in your thoughts and as the next Legislation Session beings in January, please remember they do not choose to be at that facility. They do not choose to not have the same oppourtunities that are at other facilities, they do not get to choose to lack ways to communicate with their loved ones as other facilities get to.....especially during this time of COVID! Most of these inmates do come back into our communities one day. Do we want them to come out sicker (mentally and physically), angrier, with limited proگرامing oppourtunities, and lack skills so that the chance are higher that the cycle of incarceration will continue? Do we want a private FOR PROFIT company to do what they want with basically no oversite from the state? Remember, most of the time when Director Michael is asked about Crossroads, he cannot answer because he has no idea what is going on in there and that should concern EVERY Montanan! Yes they are inmates but they are also humans.

Thank you again for your time.

Andrea Melle

Havre

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**Ashley McBride**

111 N. Johnson #1  
Missoula, Mt 59801  
(406) 552-9236  
mcbrideam20@gmail.com

August, 8th, 2020

**Ashley McBride**

Shift Leader, Burger King  
701 E. Broadway St.  
Missoula, Mt

To Whom it May Concern,

My name is Ashley McBride. Ronald Brown is my best friend. I have had the pleasure of getting to know him the past few months, both personally and professionally. Ronald is the most honest and caring person I have ever known. He has been very honest with me from the very beginning. He has shown me a great level of compassion and understanding. In return, I do the same for him and that is part of what our relationship is built on. He is an incredible father and fights every single day to better himself and to be a constant part of his daughter's life. Ronald has been someone I consistently turn to for everything. He has always been compassionate, understanding, a shoulder to cry on and an always open ear.... Just to name a few things. He stands firm in what he believes in and I admire how honest he is. Ronald has made an impact on my life as well as the lives of those who know him.

Professionally, I can say Ronald is one of the most valued employees we have. He has been more than reliable, his work ethic is impeccable and he has built strong, meaningful relationships here. He has never missed a day of work and helps the managers train the new employees. He has a positive attitude and helps keep the team's morale up. He seems to leave a positive impression with everyone who interacts with him.

Ronald and I are very close on a personal level. We are currently in a relationship together. I am not very familiar with the rules and regulations of the prerelease, so when I created a Facebook using Ronald's name, I thought it would be harmless. I created it with the intent that I would be able to post on MY facebook that we were in a

---

relationship together. I was also hoping he could take it over when he was released, and he would already have friends and family on there for him. Ronald was completely unaware that I had made the Facebook page. It was created by me and on my cell phone, and I had no intention of getting Ronald into trouble. If I had known the severity of the situation, I never would have done it.

I feel very guilty about this situation and I hope that this can clear up some of the speculation. Ronald has always been a very honest and up- front person, and I have never known him to be any other way. He is a very important person to me, his mother, and his 9 year old daughter, as well as to everyone who knows him. He is making an impact on people's lives every single day, just with his positive outlook and genuine care for others.

Sincerely,

*Ashley McBride*

*8/7/2020*

**Ashley McBride**

TO: Missoula Pre Release  
Montana Dept. of Corrections  
Montana Dept. of Probation and Parole

FROM: Ronald C. Brown 3016240

RE: Complaint of Breach of Contract, CORN-2019-0202N-5

There have been numerous violations of the Contract that exists between the Missoula Pre Release, Montana Dept. Corrections and the Montana Department of Probation and Parole. These numerous violations have been detailed in the attached Complaint. Violations not only have impeded the successful completion of Ronald C. Brown's, Probation, but has also impeded his ability to successfully manage his Type 1 Diabetes,

This attached Complaint will be filed with the appropriate legal department along with all of the Exhibits that were previously submitted prior to the Probation and Parole's previously submitted documentation.

There is no reason why Ronald C. Brown should remain to be incarcerated in any facility he has a job that is waiting for him and he has made viable contacts within the community that give him the ability to be in independent living and he has his counseling in place with Chris Nordstrom.

He has successfully completed all the necessary requirements that he needs to be on his own within the Missoula Community.

But, while being incarcerated at the START Program there is an inmate that has been diagnosed with COVID19 and by extension increased his odds of getting this virus. Since while being incarcerated at the START Program, he has developed a fever and elevated, out of control, blood sugars. His medical needs are not being met and there is no knowledgeable staff present to bring both of these health issues under control.

I would like to respectfully request that this problem within the monitoring of your contracts within the Correctional System is severely flawed and inappropriately managed by State of Montana Corrections designated representatives. That only the information that the Missoula Pre Release views as important or pertinent to an inmate are submitted up to the States data base. Taking monetary funds from inmates not only violates the trust of inmate and the Missoula Pre Release but also the ability that the inmate is in need of for a successful transition into the local community. The staff are under trained and unable to be successful at their job duties without the appropriate knowledge in how to deal with inmates and the job that is delineated in the Contract with the State of Montana. Therefore, all loose in this situation and the direct success of this program of transitioning into the local community is no longer a successful program.

The integrity of this program lies in the individuals being reliable in their duties and in their ability to communicate with all those that they have dealings with. These people of integrity as you will documented by the Missoula Police Department and the Missoula Child Protective Services were not valid or have any truth to the Missoula Pre Release's claims. Even the individual who called in the complaint recanted his claims in a letter which is also attached.

I think that all who receive this information can determine by the information contained herein that they will see the unjust treatment that Ronald C. Brown has been given to date, along with the substantial violations that have been outlined with regards to the contract and the inability of individuals at the Missoula Pre Release to instill appropriate actions to keep the contract a valid working instrument in being a successful program.

Thank you for your prompt attention to this matter.

Vivian Shammel

Mother of Ronald C. Brown

MISSOULA DISTRICT COURT

RONALD C. BROWN,	)	COMPLAINT OF BREACH OF
Plaintiff	)	CONTRACT AND
vs	)	REMEDICATION OF INMATES
	)	RIGHTS UNDER CURRENT
MISSOULA PRE RELEASE,	)	
A/K/A ENHANCED/TRANSTIONAL	)	
SERVICES. MONTANA DEPT. OF CORRECTIONS,	)	
AND MONTANA DEPT. OF CORRECTIONS,	)	
Defendant.	)	

COMES NOW, Ronald C. Brown, Plaintiff, and states that his due process rights have been violated, that fiduciary management of entrusted funds has been performed in the form of the comingling of Plaintiff's funds with others funds, illegally using Plaintiff's funds to obtain interest on the Plaintiff's funds with no direct benefit to Plaintiff, illegal removal of funds which have been removed from Plaintiff for the purpose of "services" provided by the Missoula Pre Release, after going through the process of gaining permission and less than a month later the erroneous removal of cell phone and staff's inappropriate accountability of cell phone usage monitoring, the refusal of medications due to unfulfilled prescriptions and not having a pass or funds by staff to provide these medications, the refusal of staff to order and make sure all equipment was available for diabetes management, untrained professional staffing, under staffing of trained professionals, under trained staff to cover all hours of operations, unapproved and unauthorized extended stay of contracted services that are longer than 90 days, and the latest set back of re-incarceration of Plaintiff due to the misrepresentation of the truth to the Montana Department of Probation and Parole.

The following are the circumstances in which this Complaint is being filed under:

1, Plaintiff was requested that a hearing would take place in March of 2020 and upon the Notice of Hearing, Plaintiff wished to engage an attorney to represent him at the hearing. Plaintiff was notified that he would not be allowed to not only have access to his monies to pay for the attorney but that the Missoula Pre Release would not let said attorney into the facility nor any legal representative to the hearing or access to the Plaintiff. The Plaintiff's "due process rights" were violated not only by the Missoula Pre Release, but by the Montana Dept. of Corrections, and the Montana Dept. of Probation and Parole.

2, Plaintiff again was notified that he would be subject to Hearing in July 2020 and was again told that he was not allowed legal representation and that his monies would not be released to him for such services.

3. Fiduciary Management of Plaintiff's funds were not kept in a bank account under his name. That the Missoula Pre Release deposited Plaintiff's funds into an account where they were comingled with others funds. This is a breach of trust and a violation of GAAP rules and regulations.

4. Fiduciary Management of Plaintiff's monies encases the interest that was generated by using the Plaintiff's funds and no Fiduciary gains were accounted for or benefited to the Plaintiff.

5. The monetary gain by the Missoula Pre Release for purposes of what are stated as "services" at an amount of \$15.00 per day for more than 1 year. These monetary losses of the Plaintiff, were a monetary gain for the Missoula Pre Release and taken from Plaintiff under and outside the construction of a signed Agreement between the State of Montana Dept. of Corrections and Missoula Pre Release. These funds are in the amount of  $\$15.00 \times 365 = \$5,475$  and needs to be refunded with interest to the Plaintiff.

6. The monetary funds that Plaintiff used to purchase a cell phone to not only communicate with his family, but for the use of monitoring and ordering medical supplies for his diabetes management, and for his job duties and responsibilities. Under the pretense that the Plaintiff was responsible for helping the Missoula Pre Release monitor his cell phone activities and under the claim that the Plaintiff was therefore manipulating the staff by not offering up his assistance in monitoring his cell phone. This is in reference to the March 2020, Hearing and determination from that Hearing. Due to the negative outcome of that hearing the Plaintiff's phone was removed from the Plaintiff and was not allowed to have a cell phone. This was done outside the the parameters of the signed contract between the state of Montana Corrections and the Missoula Pre Release.

7. Under the Contract CORN2019-0202N-5, that the Missoula Pre Release and the Montana Dept. of Corrections. There was to be no gap in services to the residences of the Missoula Pre Release. Under the above referenced contract there was to be no gap in services. Plaintiff was told that services to get passes or obtaining funds for medical needs was not available due to the fact that the appropriate staff was not available to obtain funds or to get a pass for medical supplies, due to Plaintiff's unforeseen circumstances. Staffing of services was not available 24/7.

8. Untrained staff for Plaintiff for the purposes of understanding the necessity of having medical supplies and equipment for management and care of Plaintiff's diabetes. When under the control and supervision of this facility it becomes the responsibility of the facility to not only have the appropriate trained staff, but to also have available cross trained staff to access Plaintiff's monies but to make sure that he is able to obtain these necessary supplies. Which on several occasions did not occur.

9. Trained staff for the purpose of obtaining appropriate housing for Plaintiff, or even assistance in obtaining appropriate housing. Resources have not been built by the Missoula Pre Release staff to make this a successful program in the community by building partnerships with local Management Companies and other community housing support services, Due to the difficulties within this local area are very challenging and not managed appropriately for the Plaintiff to make the successful transition into the local community full time.

9. The Agreement between the Missoula Pre Release and Montana Dept. of Corrections, this is only a 90 day facility. No documentation was submitted to Plaintiff for authorization for an extended stay. In fact it is stated several times in this contract, CORN2019-0202N-5 that this facility is only a 90 day facility. Yet Plaintiff was remanded to this facility for over a year,

10, Then there is the violation of trust and the misrepresentation of Plaintiff and Plaintiff's actions, which have damaged Plaintiff's ability to not only continue on Probation, but also in obtaining appropriate housing. This misrepresentation has caused the Plaintiff to be returned to the Montana State Prison and was unjustified re-incarceration of Plaintiff, and in doing so has lengthened the absenteeism from his daughter. Plaintiff has been declared by the Defendant's an uncompliant individual and in doing so the Missoula Pre Release made false representations of the truth about his location ( girl friend at Walmart, and at girl friend's apartment with her kids) and that Plaintiff was unable to build good relationships within the community. Plaintiff not only was able to prove that these statements were untrue, but has letters and statements including statements from Child Protective Services and from the Missoula Police Department, that these allegations were unfounded and were made by girl friends ex-husband, who was angry about the Divorce she had served on him.

Plaintiff is asking the court for monetary compensation in the amount of for violation of Plaintiff's rights, the violation of the Plaintiff's loss of work and for any and all monetary losses due to the violation of the Contract with the Missoula Pre Release, Montana Dept. of Corrections and the Montana Dept. Probation and Parole.

Due to the reprimand that the Plaintiff has suffered by being reprimanded back to START Program, that Plaintiff has become ill and a COVID19 inmate was diagnosed in his POD, Plaintiff's diabetes is out of control since being remanded to the START program due to needed medical supplies being inaccessible.

Therefore, Plaintiff is asking for \$1,000,000.00 and the immediate release of Plaintiff from the Montana Dept. of Corrections and change the status of Plaintiff to a level 1 offender.

Dear members of the board,

I have had the privilege of knowing and working with Ronald Brown over the last few years. Ronald Brown is a very funny and kind hearted person who has shown me that he has dedicated his life to bettering himself. This man works hard every single day and is proven to be a mentor and a leader. He has never had a drug or alcohol problem in all the time I've known him. There are people who belong in prison and then there is Ronald Brown. I humbly ask you to let my friend and mentor come home.

Thank you for your time,

Tim Hoppe

A handwritten signature consisting of a stylized 'X' followed by a horizontal line.

C  
N  
CHRIS NORDSTROM  
PSYCHOTHERAPY  
415 N Higgins, Suite 106  
Missoula, MT 59802  
406-214-0000  
chrisnordstrom1967@gmail.com

August 17, 2020

Re: Ron Brown

To whom it may concern,

I worked with Mr. Brown in SOP Aftercare while he was in the Missoula Pre-Release. I terminated him from treatment due to being found guilty of multiple violations while at the center. I am willing to work with Mr. Brown again if he were to be released back into the community and placed on either ISP or ESP and provided with that additional level of community supervision as well as him having stable residency and employment.

If you require anything else from me, please do not hesitate to contact me.

Respectfully,

Fk ulv#Q rug wurp #

Chris Nordstrom, MSW, LCSW  
Montana license #695-LCSW  
MSOTA Clinical Member #37

I am writing this in regards to Ronald Brown. My name is Stanley Ingles and my ex wife is currently in a relationship with Ronald. Upon seeing a Facebook page that I believed to be Ronald, I became increasingly curious as to who he was. I then decided to Google him, where I discovered his charges. I was very displeased since Ashley and I share three children together. I turned my concerns over to the Missoula Prerelease. I admit that I have never spoken to Ronald and know nothing about him other than his charges. I did react out of anger and acted in what I believe at the time, to be in my children's best interest. However, I did not have any actual knowledge of the situation. Now I am aware that the Facebook page was made and used by Ashley. She has provided me with all the proof and information I need to put this issue to rest. I do not like Ronald Brown because of his charges, but I am a strong figure in my children's lives and am present enough to trust the situation and allow my ex wife to continue her relationship with Ronald.

Stanley Ingles  
8/14/2020

**WATCH SERVICES  
CONTRACT # COR-SVCS-2020-0244-PPD**

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

**1. EFFECTIVE DATE AND DURATION**

The Contract's initial term is **July 1, 2019 through June 30, 2020**, unless terminated earlier as provided in this Contract. In no event is this Contract binding on the Department unless the Department's authorized representative has signed it. The legal counsel signature approving legal content of the Contract does not constitute an authorized signature.

**2. SERVICES**

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

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

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

**2.1.3 Programming and Curriculum.**

- a) Contractor must follow PFB 6.2.407 Program Structures.
- b) Contractor must follow PFB 6.2.459 Treatment and Programming for Adult Offenders.
- c) WATCH related programs: Contractor must follow:
  - i. ACCD 5.4.301 KNIGHTS,
  - ii. ACCD 5.4.303 WATCH Revocation Program,
  - iii. ACCD 5.4.304 WATCH Repeater Program, and
  - iv. ACCD 5.4.305 WATCH Aftercare Program.
- d) Evidence Based Practices (EBP)
  - i. All programming and treatment delivered to offenders shall adhere to evidence-based or research-driven practices and shall be subject to ongoing quality assurance and evaluation by MDOC to ensure fidelity to delivery standards.
  - ii. All programming and treatment shall be delivered by appropriately trained personnel as required by delivery standards.
  - iii. Contractor will submit an annual report during the month of July to the Facilities Contract Manager that describes current treatment and programming available within the facility and through referral to offenders.

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

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

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

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

- a) Detention: Contractor must follow ACCD 3.4.102 Report of Violation of Probation or Parole. Contractor will follow ACCD 5.1.104 Warrants for Offenders in ACCD Programs/Facilities.
- b) Unlawful Offender Behavior: Contractor shall report allegations of criminal conduct of offenders to local law enforcement officials and Department. Contractor shall cooperate with any administrative or criminal investigation regarding an offender. In accordance with PPD 3.1.1901 Confidential Offender Informants, under no circumstances may an offender be permitted to act as an operative/informant (i.e. actively engaging in "controlled enforcement" activities that would ordinarily be considered a violation of the law) for law enforcement officials.

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

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

**2.2.6 Administrative Transfer/Overrides.** Contractor must follow PPD 4.6.200 Administrative Transfers.

**2.2.7 Security/Counts.** Contractor must follow:

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

**2.2.8 Drug/Alcohol Testing/UAs.** Contractor must follow PPD 3.1.2000 Offender Drug and Alcohol Testing Program.

**2.2.9 Healthcare.** Contractor must follow:

- a) PPD 4.5.200 Health Care Responsibilities;
- b) ACCD 4.5.300 Medical Autonomy;
- c) ACCD 4.5.400 Health Care Credentialing;
- d) ACCD 4.5.1000 Level of Therapeutic Care;
- e) ACCD 4.5.1100 Infection Control Program;
- f) ACCD 4.5.1400 Alt-Secure Offender Intake Health Screenings;
- g) PPD 4.5.1500 Offender Health Care Access;
- h) PPD 4.5.1600 Offender Non-Emergency Health Requests;
- i) ACCD 4.5.1700 Offender Sick Call,

- j) ACCD 4.5.1900 Nursing Assessment Protocols;
- k) PPD 4.5.2000 Emergency Medical Services;
- l) PPD 4.5.2500 Pharmaceuticals; and
- m) PPD 5.1.101 Inmate Workers.

**2.2.10 Offender Rights.**

- a) Religion: Contractor must follow ACCD 5.6.100 Religion.
- b) Grievances: Contractor must follow PPD 3.3.300 Offender Grievance Program.
- c) Property/Clothing: Contractor must follow PFB 6.2.421 Offender Personal Property.
- d) Canteen: Contractor must follow ACCD 1.2.100 Canteen.
- e) Legal Assistance: Contractor must follow ACCD 3.3.200 Legal Assistance.
- f) Telephone: Contractor must follow ACCD 3.3.700 Telephones.
- g) Visitation: Contractor must follow ACCD 3.3.800 Visitation.

**2.3. Facility Management.**

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

WATCH East is located at the Eastmont Campus, 700 Little Street, Glendive, Montana 59330. The WATCH East program will house up to 50 male and/or female fourth or subsequent Felony DUI Treatment offenders. Usage of the Eastmont facility is governed by Administrative Rules of Montana (ARM) 20.7.801, 20.7.804, 20.7.807, 20.7.810, 20.7.813, and 20.7.816.

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

**2.3.2 Food Service.** Contractor must follow ACCD 4.3.100 Food Services. Cook chill shall be provided for at WATCH West.

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

- a) Staff Recruitment, Selection, and Licensure/Certification: Contractor must follow ACCD 1.3.400 Staff Recruitment, Selection, and Licensure/Certification.
- b) Staffing Plans/Patterns: Contractor must follow ACCD 1.3.401 Staffing Plans/Patterns.
- c) Staff Training: Contractor must follow ACCD 1.4.100 Staff Training.
- d) Background Staff Investigations: Contractor must follow PFB 6.2.402 Background Checks.

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

**2.4 Offender Records/Files/OMIS Access.** Contractor must follow ACCD 1.5.500 Case Records Management. Contractor will follow ACCD 1.7.100 OMIS Access for Contract Facilities.

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

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

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

**2.6 Emergency Preparedness.** Contractor must follow DOC 3.2.1 Emergency Management, DOC 3.2.1A Department Emergency Operations Plan, and PFB 6.2.422 Escapes. Contractor shall maintain written procedures to provide for the continued operation of the program in the event of an employee work stoppage, emergency, or disaster. The procedures shall include, but not be limited to: assignment of tasks and responsibilities, instructions for the use of alarm systems, notification of authorities, use of special emergency equipment, and specifications of escape routes and procedures. The emergency evacuation routes shall be posted at highly visible locations and explained to each new offender at orientation. The Facility shall conduct and maintain documentation of quarterly drills and evaluate the effectiveness of disaster procedures.

**2.6.1 Contingency Plan.** Contractor must have a written Contingency Plan approved by Department that addresses the following: an identified alternate location for offenders to reside temporarily for approximately a ninety (90) day duration, that provides adequate life support resources (i.e. food, shelter, water, personal hygiene) in the event of a natural or man-made event (i.e. earthquake, wildfire, prolonged/catastrophic utility failure, etc.) which renders the facility uninhabitable.

**2.6.2 Work Stoppages.** Contractor shall develop and maintain an emergency plan that addresses staffing during sick outs, strikes, and work stoppages at the Program and shall notify local law enforcement personnel and the Facilities Contract Manager or designee once it becomes apparent that the WATCh programs may become or, actually becomes, subject to a sick out, strike, or work stoppage.

**2.6.3 Use of Force.** Use of force by Contractor employees shall be consistent with MDOC Policies, 3.1.8 Use of Force and Restraints, ACCD 3.1.800 Use of Force, MDOC 3.1.17 Searches and Contraband Control, and ACCD 3.1.1700 Searches and Contraband Control.

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

**2.6.4 Assumed Control/Emergency Operation of Facility by Contractor and/or Department.** Contractor shall submit a detailed plan to Department for review and approval, that identifies how the facility/program will cooperatively work with other jurisdictions to effectively coordinate the

continuity of operations of the facility/program in the event of an emergency, consistent with federal guidelines.

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

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

## **2.7 Fiscal Management/Reporting.**

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

**2.7.2 No Adverse Change.** On an annual basis, Contractor must certify by signature of its authorized representative, that since the date of Contractor's most recent financial statements, there has not been any material adverse change in Contractor's business or condition, nor has there been any change in the assets or liabilities or financial condition from that reflected in the financial statements which is material to Contractor's ability to perform its obligations under this Contract. If requested, Contractor agrees to provide Department with a copy of its most recent financial statement, related to this Contract.

**2.8 Policy and Procedures Changes and Reference List.** Incorporated herein is the Department's Standard Operating Procedure Manual. Procedures listed in this manual are subject to compliance monitoring. Contractor may submit written comments on all revisions as provided for in ACCD 1.1.200 Policy Management System. If the Department proposes or considers Administrative Rule or Policy changes affecting Contractor's financial operation or the intent of the Contract, Department agrees to negotiate these changes or the Contract prior to implementation of said Administrative Rules or Policies.

Department will not implement procedures or policies that affect Contractor's financial operation or the intent of the Contract without mutual agreement. Neither Contractor nor Department will unreasonably withhold agreement.

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

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

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

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

### 3. WARRANTIES

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

### 4. CONSIDERATION/PAYMENT

Department agrees to pay a daily per diem rate where "daily" means each day, or part of a day, including the first but not the last day of program participation/confinement. This applies to each subsection listed below. Department shall compensate Contractor for successful delivery of services provided in the following manner:

#### 4.1 Compensation:

**4.1.1 Total Contract Amount.** Contract Maximum reimbursement shall not exceed **\$3,791,522**. The contract maximum amount includes all compensation noted in this contract except "special needs" funding.

#### 4.1.2 Offender Per Diem Rates.

**4.1.2.1 Warm Springs/WATCh West:** Department will pay Contractor a per diem rate of **\$63.97** (sixty- three and 97/100 dollars) per offender, per day- **not to exceed \$1,896,455 (inclusive of two (2) Inmate Workers** at a per diem rate of **\$63.97** not to exceed **\$46,826**). WATCh West's capacity at the Dr. Xanthopoulos facility is eighty-one (81) Felony DUI beds (**inclusive of two (2) Inmate Workers**), with maximum compensation calculated at an Average Daily Population of **eighty-one (81)** beds for the contract year.

**4.1.2.2 Glendive/WATCh East:** Department will pay Contractor a per diem rate of **\$104.56** (one hundred four and 56/100 dollars) per offender, per day- **not to exceed \$1,895,067 (inclusive of one (1) Inmate Worker** at a per diem rate of **\$54.34** not to exceed **\$19,888**). WATCh East's capacity at the Eastmont facility is **fifty (50)** Felony DUI beds (**inclusive of one (1) Inmate Worker**).

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

**4.1.3 Other Per Diem (Sanction Beds and Jail Stays).** During an offender's detention placement, Department will continue payment to Contractor at the contracted per diem rate to allow Contractor to "hold" the bed until the offender's return. However, upon determination by Department Hearing Officer that the offender will be returned to a higher level of custody from Contractor detention center, Contractor will discontinue receiving per diem payments for the offender and may immediately fill the bed with another offender.

Department shall pay Contractor for male and female resident beds left temporarily vacant by offenders who are placed in a jail facility and/or those serving a sanction (and not a revocation), those who have quit, and those administratively transferred for medical or mental health stabilization to the START, ASRC Programs, and jail facilities, and who will be returning to the treatment center they were sanctioned from. Department will not compensate Contractor for sanctions or administrative transfers lasting beyond 30 days unless

approved in writing by the Department.

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

**4.1.4 Position Compensation (Nurse, Mental Health).** Contractor will employ one (1) FTE Mental Health Professional at the Warm Springs/WATCh West program and one (1) 0.5 FTE Nurse Position and one (1) 0.5 FTE Maintenance Person at the Glendive/WATCH East program. Each position is included in the per diem/contract maximums identified above.

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

**4.2 Billing/Payment.** All payments made under this Contract shall be made only upon submission by Contractor of an Invoice specifying the amounts due and certifying that services requested under the Contract have been performed in accordance with the Contract. Invoices shall be submitted no later than the 10<sup>th</sup> of each month and shall contain each offender name and MDOC ID number (Offender#) participating in the WATCh Program, the date of Program entry, and date of release, if applicable.

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

**4.2.1 Guaranteed Payment.** Department will guarantee payment for a minimum of fifty (50) offenders per day, per month at the Warm Springs facility and will guarantee payment for a minimum of thirty (30) offenders per day, per month at the Glendive facility, regardless of the actual number of offenders in the respective facility.

**4.2.2 Minor Maintenance and Utility Costs.** Contractor is responsible for facility minor maintenance and utility costs as outlined in ACCD 2.1.200 Facility Conditions and Maintenance. Contractor shall invoice Department for a portion of utility costs in accordance with the above referenced policy on a monthly basis.

**4.3 Withholding of Payment.** Contractor must follow ACCD 1.1.700 Compliance Monitoring. Department may withhold payments to Contractor in an amount equal to the additional costs to the Department or \$1,000.00 per month, whichever is greater, for failure to perform in accordance with the terms of this Contract. However, prior to withholding payment, Department shall notify Contractor, in writing, of its failure to perform. The notice shall specify acts or omissions constituting the default. If Contractor fails to remedy the default or submit an action plan deemed acceptable by Department within 60 calendar days of receipt of notice [documented by certified mail], Department may withhold payments. Department may allow Contractor additional time, as appropriate, provided Contractor demonstrates a good faith effort to achieve compliance.

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

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

## **5. AGENCY ASSISTANCE**

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

## **6. PREVAILING WAGE REQUIREMENTS**

**6.1 Montana Resident Preference.** The nature of the work performed, or services provided, under this contract meets the statutory definition of a "public works contract" in 18-2-401, MCA. Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or nonconstruction services. Contractor shall abide by the requirements set out in 18-2-401 through 18-2-432, MCA, and all administrative rules adopted under these statutes.

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

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

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

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

All contractors and employers shall classify each employee who performs labor on a public works project according to the applicable standard prevailing rate of wages for such craft, classification, or type of employee established by the Commissioner of the Montana Department of Labor and Industry, and shall pay each such employee a rate of wages not less than the standard prevailing rate as specified in the Montana Prevailing Wages Rates for Nonconstruction Services 2019..

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

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

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

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

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

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

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

## **10. REQUIRED INSURANCE**

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

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

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

The Department, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for liability arising out of activities performed by or on behalf of Contractor, including the insured's

general supervision of Contractor, products, and completed operations, and the premises owned, leased, occupied, or used.

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

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

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

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

**10.7 Certificate of Insurance/Endorsements.** A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620-1301. Contractor must notify the Department immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The Department reserves the right to require complete copies of insurance policies at all times.

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

policy form with a retroactive date prior to the contract effective date, the Contractor must purchase “extended reporting” coverage for a minimum of three (3) years after completion of work.

## **11. LICENSURE**

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

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

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

## **13. COMPLIANCE WITH LAWS**

**13.1 Compliance with Laws.** Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Contractor will comply with the Prison Rape Elimination Act 42 U.S.C.A. § 15601ff, the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.1.17, Prison Rape Elimination Act, and ACCD 1.1.1700 PREA to include incident reporting. Contractor shall establish a zero-tolerance policy to incidents of sexual assault/rape or sexual misconduct. Any subletting or subcontracting by Contractor subjects its subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

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

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

**13.4 Reporting Requirements.** Contractor, if Contractor is an applicable large employer under the

ACA, further states that it shall satisfy all reporting requirements under the Code §§ 6055 and 6056 (ACA) with respect to individuals who perform services for the State.

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

#### **14. DISABILITY ACCOMMODATIONS**

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

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

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are domiciled in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

#### **16. INTELLECTUAL PROPERTY/OWNERSHIP**

**16.1 Mutual Use.** Contractor shall make available to the Department, on a royalty-free, non-exclusive basis, all patent and other legal rights in or to inventions first conceived and reduced to practice or created in whole or in part under this Contract, if such availability is necessary for the Department to receive the benefits of this Contract. Unless otherwise specified in a statement of work, both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use copyrightable property created under this Contract. This mutual right includes (i) all deliverables and other materials, products, modifications that Contractor has developed or prepared for the Department under this Contract; (ii) any program code, or site related program code that Contractor has created, developed, or prepared under or primarily in support of the performance of its specific obligations under this Contract; and (iii) manuals, training materials, and documentation. All information described in (i), (ii), and (iii) is collectively called the "Work Product".

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

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

**16.4 Copy of Work Product.** Contractor shall, at no cost to the Department, deliver to the Department, upon the Department's request during the term of this Contract or at its expiration or termination,

a current copy of all Work Product in the form and on the media in use as of the date of the Department's request, or such expiration or termination.

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

## **17. CONTRACT TERMINATION**

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

**17.2 Termination for Cause with Notice to Cure Requirement.** Contractor may terminate this Contract for the Department's failure to perform any of its duties under this Contract after giving the Department written notice of the failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

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

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

- a) Contractor applies for or consents to the appointment of a receiver, trustee or liquidator of itself or of all or a substantial part of its assets;
- b) Contractor files a voluntary petition in bankruptcy;
- c) Contractor admits in writing its inability to pay its debts as they become due;
- d) Contractor makes a general assignment for the benefit of creditors;
- e) Contractor files a petition or an answer seeking reorganization or rearrangement with creditors or, as a debtor, invokes or takes advantage of any insolvency law; or
- f) A court of competent jurisdiction enters an order, judgment or decree, on the application of a creditor, adjudicating Contractor as bankrupt or insolvent or approving a petition seeking reorganization of Contractor or a substantial part of its assets, and such order, judgment or decree continues unstayed for thirty (30) days.

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

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

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

- a) Stop work under the Contract on the date and to the extent specified in the Notice of Termination;
- b) Place no further orders for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Contract that is not terminated;
- c) With Department approval or ratification, settle all outstanding liabilities and all claims arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provision of the Contract;
- d) Deliver files, processing systems, data manuals, and/or documentation, in any form, to Department at the time and in the manner requested by Department; and
- e) Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.

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

## **18. EVENT OF BREACH – REMEDIES**

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

- ⌚ products or services furnished fail to conform to any requirement;
- ⌚ failure to submit any report required by this Contract;

- Ⓟ failure to perform any of the other terms and conditions of this Contract, including but not limited to beginning work under this contract without prior Department approval; or
- Ⓟ voluntary or involuntary bankruptcy or receivership.

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

**18.3 Actions in Event of Breach.**

Upon Contractor's material breach, the Department may:

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

Upon the Department's material breach, Contractor may:

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

**19. FORCE MAJEURE**

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than five working days after the onset. If the notice is not provided within the five-day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this Contract, unless the parties mutually agree that the obligation is excused because of the condition.

**20. WAIVER OF BREACH**

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

## 21. LIAISONS AND SERVICE OF NOTICES

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

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

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

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

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

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

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

## 22. MEETINGS

**22.1 Technical or Contractual Problems.** Contractor shall meet with the Department's personnel, or designated representatives, to resolve technical or contractual problems occurring during the Contract term or to discuss the progress made by Contractor and the Department in the performance of their respective obligations, at no additional cost to the Department. The Department may request the meetings as problems arise and will be coordinated by the Department. The Department shall provide Contractor a minimum of three full working days' notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the Contract.

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

**22.3 Department's Failure or Delay.** For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of the Department's failure or delay in discharging any Department obligation, the Department shall review same and determine if such problem or circumstance was in fact the result of such failure or delay. If the Department agrees as to the cause of such problem or circumstance, then the parties shall extend any deadlines or due dates affected thereby and provide for any

additional charges by Contractor. This is Contractor's sole remedy. If the Department does not agree as to the cause of such problem or circumstance, the parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both parties.

**23. TRANSITION ASSISTANCE**

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 the 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. The Department shall pay Contractor for any resources utilized in performing such transition assistance at the most current Contract rates. If the Department terminates a project or this Contract for cause, then the Department may offset the cost of paying Contractor for the additional resources Contractor utilized in providing transition assistance with any damages the Department may have sustained as a result of Contractor's breach.

**24. CHOICE OF LAW AND VENUE**

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

**25. TAX EXEMPTION**

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

**26. PERSONAL PROPERTY TAX**

All personal property taxes will be paid by the Contractor.

**27. AUTHORITY**

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

**28. SEVERABILITY CLAUSE**

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

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

**29.1 Contract.** This Contract consists of 42 numbered pages plus any Attachments referred to within the numbered pages of the Contract provided they have been expressly incorporated herein by reference.

**29.2 Entire Agreement.** These documents are the entire agreement of the parties. All prior

negotiations, representations, and understandings between the parties are superseded by the Contract. Any amendment or modification must be in a written agreement signed by the parties.

**30. WAIVER**

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

**31. EXECUTION**

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

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

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

BY: Megan Coy, Bureau Chief

BY: Mike Thatcher, Chief Executive Officer

DocuSigned by:  
*Megan Coy*  
81B86FEFC95846B...  
\_\_\_\_\_  
(Signature)

DocuSigned by:  
*Mike Thatcher*  
887ECE8E425C4D2...  
\_\_\_\_\_  
(Signature)

DATE: 10/2/2019

DATE: 10/2/2019

Approved as to Legal Content:

DocuSigned by:  
*Colleen Emberson* /2019  
FFF888078013447...  
\_\_\_\_\_  
Legal Counsel (Date)

Approved as to Form:

DocuSigned by:  
*Pat Schlauch* 9/19/2019  
8737BA31A5794F3...  
Procure \_\_\_\_\_  
(Date)

## ATTACHMENT A

**ORIGINAL**

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

### RECITAL

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

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

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

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

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

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

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

**LEGAL DESCRIPTION OF PARCEL A**

*(Xanthopoulos Building Site)*

**A TRACT OF LAND LOCATED IN THE SE 1/4, SECTION 13 AND NE 1 / 4 SECTION 24, T.5N., R. 10W., P.M., M., DEER LODGE COUNTY, MONTANA, WARM SPRINGS, MONTANA; DESCRIBED AS FOLLOWS;**

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

**SUBJECT TO ANY EASEMENTS OF RECORD**

**LEGAL DESCRIPTION OF PARCEL B (Old Boiler Plant Site)**

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

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

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

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

**SUBJECT TO ANY EASEMENTS OF RECORD**

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

**TERMS OF AGREEMENT**

The DPHHS and Corrections agree as follows:

**I. ASSIGNMENT OF MANAGEMENT**

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

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

## **II. TRANSFER, EASEMENTS, AND DEDICATIONS**

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

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

## **III. ACCESS AND SIGNAGE**

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

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

## **IV. MAINTENANCE AND REPAIR**

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

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

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

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

## **V. UTILITIES**

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

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

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

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

## **VI. OPERATION OF BOILER PLANT**

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

## **VII. FIRE DEPARTMENT**

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

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

### **VIII. FUNDING FOR STAFF**

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

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

### **IX. BILLINGS FOR COSTS**

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

### **X. WATER RIGHTS**

There are no water rights associated with the Property.

### **XI. SECURITY AND INMATE MANAGEMENT**

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

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

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

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

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

### **XII. DEPARTMENTAL COOPERATION**

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

**XIII. LIAISON**

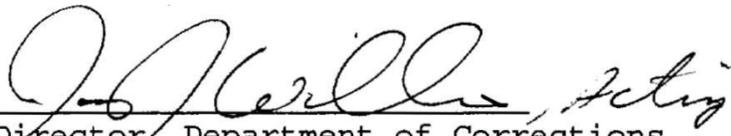
Corrections must direct the managing entity for the residential correctional program to specify a member of its management personnel who is to be a liaison with DPHHS.

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

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

11/30/01  
Date

  
\_\_\_\_\_  
Director, Department of Public Health & Human Services

  
\_\_\_\_\_  
Director, Department of Corrections

## **ATTACHMENT B – DOC POLICIES AND PROCEDURES**

1.1.17	Prison Rape Elimination Act (PREA)
1.1.200	Procedure Management System
1.1.700	Compliance Monitoring
1.1.1700	Prison Rape Elimination Act of 2003 (PREA)
1.2.100	Canteen
1.3.400	Staff Recruitment, Selection, and Licensure/Certification
1.3.401	Staffing Plans/Patterns
1.4.100	Staff Training
1.5.13	DNA Testing/Collection of Biological Samples
1.5.500	Case Records Management
1.7.100	OMIS Access for Contract Facilities
1.7.200	OMIS Entry
2.1.100	Facility Management
2.1.200	Facility Conditions and Maintenance
3.1.8	Use of Force and Restraints
3.1.17	Searches and Contraband Control
3.1.300	Logs and Record-Keeping Systems
3.1.500	Entrance Procedures
3.1.800	Use of Force and Restraints
3.1.1100	Offender Movement Control
3.1.1300	Key Control
3.1.1400	Tool Control
3.1.1700	Searches and Contraband Control
3.1.2000	Offender Drug and Alcohol Testing Program
3.1.2100	Offender Counts and Supervision
3.2.1	Emergency Management
3.3.200	Legal Assistance
3.3.300	Offender Grievance Program
3.3.700	Telephones
3.3.800	Visitation
3.4.102	Report of Violation of Probation or Parole
4.1.100	Screenings for Adult Offender Placement
4.3.100	Food Services
4.5.200	Health Care Responsibilities
4.5.300	Medical Autonomy

4.5.400	Health Care Credentialing
4.5.1000	Level of Therapeutic Care
4.5.1100	Infection Control Program
4.5.1400	Alt Secure Offender Intake Health Screenings
4.5.1500	Offender Health Care Access
4.5.1600	Offender Non-Emergency Health Requests
4.5.1700	Offender Sick Cal
4.5.1900	Nursing Assessment Protocols
4.5.2000	Emergency Medical Services
4.5.2500	Pharmaceuticals
4.6.200	Administrative Transfers
5.1.101	Inmate Workers
5.1.104	Warrants for Offenders in ACCD Program/Facilities
5.6.100	Religion
6.2.402	Background Check
6.2.407	Program Structures
6.2.409	Statistical and Contractor Reports
6.2.421	Offender Personal Property
6.2.433	Facility Offender Travel
6.2.437	Lengths of Stay (LOS)

**ATTACHMENT C**

**MONTANA  
PREVAILING WAGE RATES FOR NONCONSTRUCTION SERVICES 2019**

Effective: January 26 2019

Steve Bullock, Governor  
State of Montana

Galen Hollenbaugh, Commissioner  
Department of Labor & Industry

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

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

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

**MONTANA PREVAILING WAGE REQUIREMENTS**

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

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

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

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

GALEN HOLLENBAUGH  
Commissioner

Department of Labor and Industry  
 State of Montana

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**A. Date of Publication January 26 2019**

**B. Definition of Nonconstruction Services Occupations**

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

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

**C. Definition of Public Works Contract**

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

**D. Prevailing Wage Schedule**

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

**E. Rates to Use for Projects**

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

**F. Wage Rate Adjustments for Multiyear Contracts**

Section 18-2-417, MCA states:

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

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

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

**G. Fringe Benefits**

Section 18-2-412, MCA states:

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

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

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

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

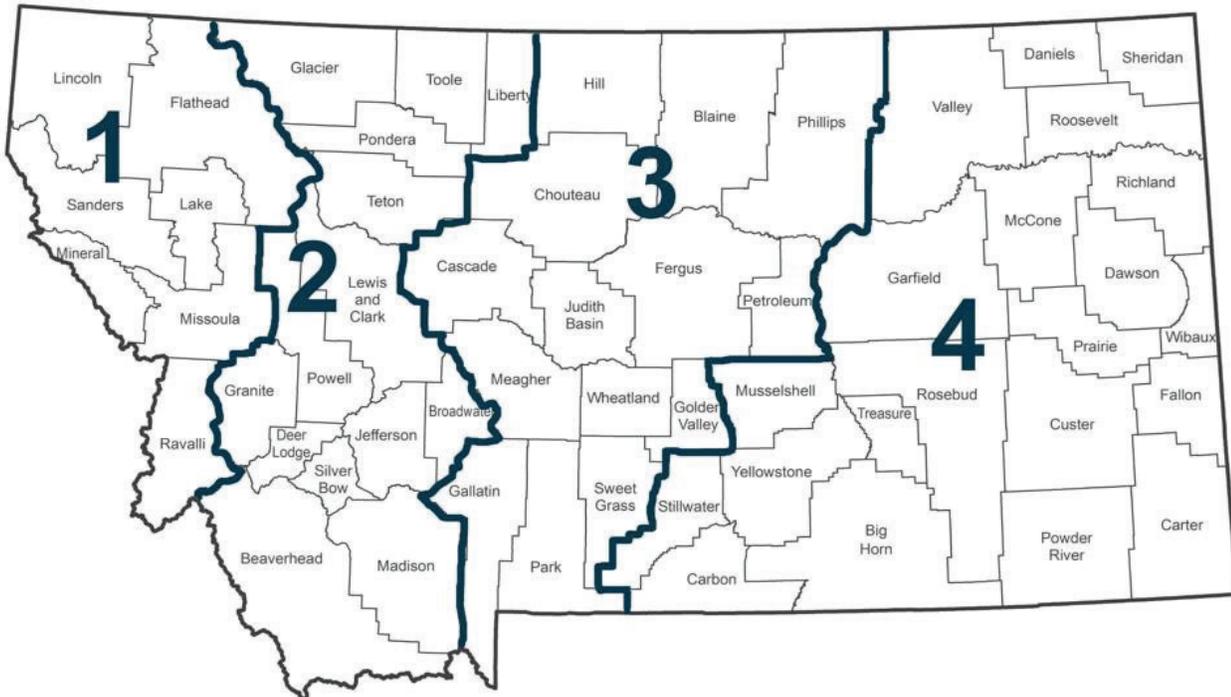
(2) The fringe benefit fund, plan, or program described in subsection (1)(b) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or bona fide programs that meet the requirements of the Employee Retirement Income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

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

**H. Prevailing Wage Districts**

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

**Montana Prevailing Wage Districts**



**I. Dispatch City**

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

**District 1 - Kalispell and Missoula:** includes Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders;

**District 2 - Butte and Helena:** includes Beaverhead, Broadwater, Deer Lodge, Glacier, Granite, Jefferson, Lewis and Clark, Liberty, Madison, Pondera, Powell, Silver Bow, Teton, and Toole;

**District 3 - Bozeman and Great Falls:** includes Blaine, Cascade, Chouteau, Fergus, Gallatin, Golden Valley, Hill, Judith Basin, Meagher, Park, Petroleum, Phillips, Sweet Grass, and Wheatland;

**District 4 - Billings:** includes Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Musselshell, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Treasure, Valley, Wibaux, and Yellowstone.

### **J. Zone Pay**

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

### **K. Computing Travel Benefits**

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

### **L. Per Diem**

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

### **M. Apprentices**

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

### **N. Posting Notice of Prevailing Wages**

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

### **O. Employment Preference**

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

### **P. Occupations Definitions**

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

### **Q. Nonconstruction Services Occupations**

**MAINTENANCE OF PUBLICLY OWNED BUILDINGS AND FACILITIES**

STATIONARY ENGINEERS AND BOILER OPERATORS  
ELEVATOR REPAIRERS  
ENVIRONMENTAL SERVICES WORKERS  
MAINTENANCE AND REPAIR WORKERS

**CUSTODIAL OR SECURITY SERVICES FOR PUBLICLY OWNED BUILDINGS AND FACILITIES**

JANITORS AND CLEANERS  
SECURITY AND FIRE ALARM SYSTEMS REPAIRERS  
SECURITY GUARDS

**GROUNDS MAINTENANCE FOR PUBLICLY OWNED PROPERTY**

FALLERS  
FOREST AND CONSERVATION TECHNICIANS  
FOREST AND CONSERVATION WORKERS  
FOREST EQUIPMENT OPERATORS  
LANDSCAPING AND GROUNDSKEEPING WORKERS  
PEST CONTROL WORKERS  
PESTICIDE/HERBICIDE HANDLERS, SPRAYERS, AND APPLICATORS  
TREE TRIMMERS AND PRUNERS, (RIGHT AWAY)

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

RECYCLING AND RECLAMATION WORKERS  
REFUSE AND RECYCLABLE MATERIALS COLLECTORS  
SANITARY LANDFILL ATTENDANTS  
SANITARY LANDFILL OPERATORS  
WATER AND WASTEWATER TREATMENT PLANT AND SYSTEM OPERATORS

**LAW ENFORCEMENT, INCLUDING CORRECTION AND DETENTION OFFICERS**

CORRECTION AND DETENTION OFFICERS  
POLICE, FIRE, AND AMBULANCE DISPATCHERS  
PROBATION OFFICERS

**FIRE PROTECTION**

FIRE EXTINGUISHER REPAIRERS  
FIREFIGHTERS, (WILDLANDS)

**PUBLIC OR SCHOOL TRANSPORTATION DRIVING**

BUS DRIVERS, (SCHOOL OR SPECIAL CLIENT)  
BUS DRIVERS, (TRANSIST AND INTERCITY)  
LIGHT TRUCK OR DELIVERY SERVICES DRIVERS  
HEAVY AND TRACTOR-TRAILER TRUCK DRIVRS

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

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

**MATERIAL AND MAIL HANDLING**

FREIGHT, STOCK, AND MATERIAL HANDLERS

**FOOD SERVICE AND COOKING**

COOKS, (INSTITUTION AND CAFETERIA)  
FOOD PREPARATION AND SERVING RELATED WORKERS

**MOTOR VEHICLE AND CONSTRUCTION EQUIPMENT REPAIR AND SERVICING**

AUTOMOTIVE MASTER MECHANICS  
CONSTRUCTION EQUIPMENT MECHANICS

**APPLIANCE AND OFFICE MACHINE REPAIR AND SERVICING**

APPLIANCE SERVICE TECHNICIANS  
PERSONAL COMPUTER SUPPORT TECHNICIANS

## WAGE RATES

### MAINTENANCE OF PUBLICLY OWNED BUILDINGS AND FACILITIES

#### STATIONARY ENGINEERS AND BOILER OPERATORS

No Rate Established

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#### ELEVATOR REPAIRERS

	Wage	Benefit
District 1	\$52.41	\$33.00
District 2	\$52.41	\$33.00
District 3	\$52.41	\$33.00
District 4	\$52.41	\$33.00

#### Travel:

##### All Districts

0-15 mi. free zone

>15-25 mi. \$45.26/day

>25-35 mi. \$84.01/day

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

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#### ENVIRONMENTAL SERVICES WORKERS

	Wage	Benefit
District 1	\$12.48	\$4.21
District 2	\$11.85	\$4.83
District 3	\$11.97	\$4.74
District 4	\$12.58	\$4.84

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#### MAINTENANCE AND REPAIR WORKERS

	Wage	Benefit
District 1	\$18.56	\$ 7.13
District 2	\$17.68	\$ 8.69
District 3	\$17.44	\$10.44
District 4	\$19.59	\$ 6.84

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## CUSTODIAL OR SECURITY SERVICES FOR PUBLICLY OWNED BUILDINGS AND FACILITIES

### JANITORS AND CLEANERS

	Wage	Benefit
District 1	\$13.93	\$4.91
District 2	\$13.31	\$4.34
District 3	\$15.76	\$8.26
District 4	\$15.68	\$9.68

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### SECURITY AND FIRE ALARM SYSTEMS REPAIRERS

No Rate Established

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### SECURITY GUARDS

	Wage	Benefit
District 1	\$15.79	\$3.10
District 2	\$15.59	\$2.71
District 3	\$15.88	\$3.28
District 4	\$15.31	\$3.34

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## GROUNDS MAINTENANCE FOR PUBLICLY OWNED PROPERTY

### FALLERS

No Rate Established

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### FOREST AND CONSERVATION TECHNICIANS

No Rate Established

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### FOREST AND CONSERVATION WORKERS

No Rate Established

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## FOREST EQUIPMENT OPERATORS

No Rate Established

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## LANDSCAPING AND GROUNDSKEEPING WORKERS

	Wage	Benefit
District 1	\$14.79	\$8.07
District 2	\$16.68	\$7.41
District 3	\$13.05	\$8.09
District 4	\$16.41	\$6.72

### Duties Include:

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

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## PEST CONTROL WORKERS

	Wage	Benefit
District 1	\$15.27	\$3.63
District 2	\$15.27	\$3.63
District 3	\$15.27	\$3.63
District 4	\$15.27	\$3.63

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## PESTICIDE/HERBICIDE HANDLERS, SPRAYERS, AND APPLICATORS

	Wage	Benefit
District 1	\$16.54	\$6.96
District 2	\$20.50	\$5.89
District 3	\$13.44	\$4.93
District 4	\$17.99	\$5.81

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## TREE TRIMMERS AND PRUNERS, (RIGHT AWAY)

	Wage	Benefit
District 1	\$20.34	\$8.01
District 2	\$16.99	\$8.01
District 3	\$16.35	\$8.38
District 4	\$26.19	\$8.98

### Travel:

#### All Districts

- 0-25 mi. - free zone
- >25-50 mi. - \$20.00/day
- >50 mi. - \$70.00/day

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

### RECYCLING AND RECLAMATION WORKERS

No Rate Established

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### REFUSE AND RECYCLABLE MATERIALS COLLECTORS

	Wage	Benefit
District 1	\$16.16	\$7.52
District 2	\$17.11	\$9.18
District 3	\$18.20	\$8.46
District 4	\$21.76	\$6.95

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### SANITARY LANDFILL ATTENDANTS

	Wage	Benefit
District 1	\$12.46	\$8.32
District 2	\$13.94	\$8.20
District 3	\$15.43	\$6.34
District 4	\$14.71	\$5.59

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### SANITARY LANDFILL OPERATORS

	Wage	Benefit
District 1	\$20.09	\$9.09
District 2	\$19.41	\$9.05
District 3	\$20.10	\$7.79
District 4	\$19.65	\$7.44

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### WATER AND WASTEWATER TREATMENT PLANT AND SYSTEM OPERATORS

	Wage	Benefit
District 1	\$21.89	\$10.12
District 2	\$26.49	\$14.50
District 3	\$21.13	\$ 8.35
District 4	\$22.00	\$ 9.00

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## LAW ENFORCEMENT, INCLUDING CORRECTION AND DETENTION OFFICERS

### CORRECTION AND DETENTION OFFICERS

	Wage	Benefit
District 1	\$21.41	\$11.00
District 2	\$18.52	\$10.30
District 3	\$17.13	\$ 9.78
District 4	\$19.82	\$10.66

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### POLICE, FIRE, AND AMBULANCE DISPATCHERS

	Wage	Benefit
District 1	\$20.14	\$9.77
District 2	\$16.07	\$5.72
District 3	\$15.03	\$7.64
District 4	\$19.97	\$7.25

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### PROBATION OFFICERS

	Wage	Benefit
District 1	\$21.45	\$11.15
District 2	\$21.63	\$11.20
District 3	\$21.15	\$11.00
District 4	\$21.04	\$10.97

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## FIRE PROTECTION

### FIRE EXTINGUISHER REPAIRERS

No Rate Established

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### FIREFIGHTERS, (WILDLANDS)

	Wage	Benefit
District 1	\$13.86	\$4.00
District 2	\$14.26	\$4.05
District 3	\$14.26	\$4.05
District 4	\$14.26	\$4.05

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## PUBLIC OR SCHOOL TRANSPORTATION DRIVING

### BUS DRIVERS, (SCHOOL OR SPECIAL CLIENT)

	Wage	Benefit
District 1	\$16.12	\$5.00
District 2	\$15.38	\$5.14
District 3	\$15.46	\$5.79
District 4	\$16.80	\$4.05

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### BUS DRIVERS, (TRANSIT AND INTERCITY)

	Wage	Benefit
District 1	\$13.26	\$9.35
District 2	\$11.19	\$1.01
District 3	\$14.57	\$5.29
District 4	\$19.23	\$6.70

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### LIGHT TRUCK OR DELIVERY SERVICES DRIVERS

	Wage	Benefit
District 1	\$16.33	\$2.04
District 2	\$15.82	\$2.04
District 3	\$15.94	\$2.04
District 4	\$16.38	\$2.04

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### HEAVY AND TRACTOR-TRAILER TRUCK DRIVERS

	Wage	Benefit
District 1	\$21.79	\$10.65
District 2	\$21.01	\$10.32
District 3	\$19.67	\$ 9.23
District 4	\$19.67	\$ 9.23

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

### BREATH ALCOHOL TECHNICIANS

No Rate Established

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**CLINICAL LABORATORY TECHNICAINS AND TECHNOLOGISTS**

	Wage	Benefit
District 1	\$26.38	\$ 9.82
District 2	\$29.34	\$11.77
District 3	\$28.85	\$ 6.67
District 4	\$29.57	\$ 9.60

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**EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS**

	Wage	Benefit
District 1	\$15.70	\$8.07
District 2	\$16.45	\$5.70
District 3	\$18.81	\$6.67
District 4	\$16.64	\$7.25

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**HOME HEALTH AIDES**

	Wage	Benefit
District 1	\$11.06	\$4.68
District 2	\$11.65	\$3.55
District 3	\$11.65	\$2.73
District 4	\$12.16	\$3.02

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**LICENSED PRACTICAL NURSES**

	Wage	Benefit
District 1	\$21.01	\$7.28
District 2	\$20.82	\$7.07
District 3	\$21.63	\$5.97
District 4	\$23.05	\$5.72

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**NURSE PRACTITIONERS**

	Wage	Benefit
District 1	\$49.97	\$15.25
District 2	\$51.18	\$14.16
District 3	\$48.19	\$11.11
District 4	\$52.75	\$16.00

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**NURSING ASSISTANTS AND ORDERLIES**

	Wage	Benefit
District 1	\$12.64	\$4.81
District 2	\$13.78	\$4.47
District 3	\$12.92	\$4.28
District 4	\$14.09	\$3.30

Occupations Include:  
 Certified Nursing Assistants, Hospital Aides, Infirmary Attendants

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**PERSONAL CARE AIDES**

	Wage	Benefit
District 1	\$11.06	\$4.68
District 2	\$11.65	\$3.55
District 3	\$11.65	\$2.73
District 4	\$12.16	\$3.02

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**PHYSICIANS ASSISTANTS**

	Wage	Benefit
District 1	\$50.10	\$12.51
District 2	\$52.36	\$12.36
District 3	\$53.38	\$13.53
District 4	\$54.22	\$14.02

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**REGISTERED NURSES**

	Wage	Benefit
District 1	\$30.66	\$10.78
District 2	\$31.01	\$ 8.69
District 3	\$32.13	\$ 6.67
District 4	\$34.15	\$ 6.12

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**MATERIAL AND MAIL HANDLING****FREIGHT, STOCK, AND MATERIAL HANDLERS**

	Wage	Benefit
District 1	\$15.43	\$2.14
District 2	\$15.00	\$1.00
District 3	\$15.89	\$2.14
District 4	\$16.42	\$2.48

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## FOOD SERVICE AND COOKING

### COOKS, (INSTITUTION AND CAFETERIA)

	Wage	Benefit
District 1	\$12.91	\$4.76
District 2	\$13.80	\$4.56
District 3	\$12.65	\$5.25
District 4	\$13.90	\$5.36

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### FOOD PREPARATION AND SERVING RELATED WORKERS

	Wage	Benefit
District 1	\$10.96	\$3.57
District 2	\$10.56	\$3.69
District 3	\$12.26	\$4.40
District 4	\$12.03	\$3.27

#### Occupations Include:

Dietary Aides, Counter Attendants, and Dining Room Attendants.

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## MOTOR VEHICLE AND CONSTRUCTION EQUIPMENT REPAIR AND SERVICING

### AUTOMOTIVE MASTER MECHANICS

	Wage	Benefit
District 1	\$21.63	\$ 5.30
District 2	\$21.09	\$ 4.26
District 3	\$20.63	\$11.92
District 4	\$23.81	\$ 6.61

#### Duties Include:

Diesel Engine Repair.

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### CONSTRUCTION EQUIPMENT MECHANICS

	Wage	Benefit
District 1	\$25.16	\$10.24
District 2	\$23.88	\$ 9.81
District 3	\$22.88	\$ 9.33
District 4	\$22.40	\$10.12

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## APPLIANCE AND OFFICE MACHINE REPAIR AND SERVICING

### APPLIANCE SERVICE TECHNICIANS

No Rate Established

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### PERSONAL COMPUTER SUPPORT TECHNICIANS

	Wage	Benefit
District 1	\$24.61	\$ 9.30
District 2	\$22.99	\$ 8.80
District 3	\$21.50	\$11.46
District 4	\$22.04	\$15.85

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**Enhanced/Transitional Supervision Services (ETSS)  
COR2019-0202N-5**

**THIS CONTRACT** is entered into by and between the State of Montana, **Department of Corrections**, (State), whose address and phone number are P.O. Box 201301, 5 S Last Chance Gulch, Helena, MT 59601, (406) 444-4333, and **Missoula Correctional Services, Inc.**, (Contractor), whose address and phone number are 2350 Mullan Road, Missoula, MT 59808, (406) 541-9200.

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

**1.1 Contract Term.** The Contract's initial term is upon contract execution through **June 30, 2021**, unless terminated earlier as provided in this Contract. In no event is this Contract binding on State unless State'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.** State may renew this Contract under its then-existing terms and conditions (subject to potential cost adjustments described below in section 2) in two-year intervals, or any interval that is advantageous to State. This Contract, including any renewals, may not exceed a total of seven (7) years.

**1.3 Definition of Contract Execution.** Contract execution, as used in Section 1.1, refers to the joint execution of this contract and amendment #8 to contract 06-051-ACCD.

**2. PRICE ADJUSTMENTS**

After the Contract's initial term and if State agrees to a renewal, the parties may negotiate price adjustments at the time of Contract renewal. Any price increases must be based on demonstrated industrywide or regional increases in Contractor's costs. Neither State nor contractor are obligated to agree to a contract renewal or a price increase.

**3. SERVICES**

**3.1 Transitional Services.** Contractor shall provide Transitional Services to offenders who are being released from a prison, an assessment/sanction center, prerelease center, or treatment center for up to the first 90 days of community supervision after release. A Probation and Parole Officer (PO) will determine the specific services to be provided to each offender based on the offender's needs and individualized case plan as determined or developed by the State. The referring PO will complete an agreed upon referral form designating the services selected. Contractor will confirm availability of services, establish a start date, and return the referral form to the PO and the designated State staff.

**3.2 Enhanced Supervision Services.** Contractor shall provide Enhanced Supervision Services to offenders for whom an intervention has been imposed by a PO or State Hearing Officer in accordance with the Montana Incentives and Interventions Grid (MIIG) for Adult Probation and Parole. Services will be provided for up to 90 days, based on the level of the intervention. The supervising PO or a Hearing Officer will determine the specific services to be provided. The referring PO will complete an agreed upon referral form designating the services selected. Contractor will confirm availability of services, establish a start date, and return the referral form to the PO and the designated State staff. Offenders may be continued on community supervision or placed in jail pending services availability as determined by the PO and/or Hearing Officer.

**3.3 Offender Costs.** Offenders will not be responsible for any costs related to the provision of Transitional or Enhanced Supervision Services.

**3.4 Service Locations and Maximum Number of Offenders.** Contractor shall provide Transitional and Enhanced Supervision Services in Missoula, MT. The total maximum number of offenders receiving services shall not exceed an average daily population of 80 offenders per fiscal year.

**3.5 Service Descriptions.** Available services for Transitional and Enhanced Supervision Services are:

- a. One (1) one-to-one meeting with the Contractor per week for case management services.
- b. Offender check-ins with Contractor once daily up to seven (7) times per week which may include breathalyzer testing, schedule check, and attendance verification for scheduled treatment, programming, self-help, court-ordered community service, or employment meetings/shifts.
- c. Up to three (3) random drug/alcohol tests per week as designated by the supervising PO.
- d. Development of a weekly itinerary in the community with periodic verification by Contractor.
- e. Evidence-based, cognitive behavioral-based programming.
- f. Job development services, including assistance preparing resumes and preparing for interviews.
- g. Continuous drug/alcohol testing mechanisms approved by the State.
- h. Electronic monitoring/global positioning system (GPS).
- i. Assistance with application processes for needed services, including but not limited to:
  - i. Treatment or programming
  - ii. Behavioral health peer support services
  - iii. Family services
  - iv. Reentry services, including housing, public assistance, budgeting/financial planning, veteran-specific, vocational, and educational services.

**3.6 Cognitive Behavioral-Based Programming.**

**3.6.1 Adherence to Evidence-Based Practices and Quality Assurance.** All cognitive behavioral-based programming delivered to offenders shall adhere to evidence-based or research-driven practices and shall be subject to ongoing quality assurance and evaluation by the State to ensure fidelity to delivery standards.

**3.6.2 Programming Approval.** All programming curriculum must be approved by the State prior to program delivery.

**3.6.3 Contractor Training and Certification.** All programming shall be delivered by appropriately trained or certified personnel in order to ensure fidelity to delivery standards.

**3.6.4 Reporting to State.** Contractor shall submit biannual reporting to the State regarding programming that includes the number of offenders referred by MDOC, the number of offenders successfully and unsuccessfully completing, the current programming capacity, and other information as requested by the State.

**3.7 Alcohol and Drug Testing.**

**3.7.1 Random and Non-Random Testing.** Contractor will establish a system of random and non-random drug and alcohol testing to test for use of substances.

**3.7.2 Testing Procedures.** Contractor will implement drug and alcohol testing procedures which promote a drug-free standard, offender accountability, and offender-self admissions.

**3.7.3 Best Practices/Standards for Testing.** Contractor will ensure drug and alcohol testing is in accordance with best practices/standards for testing.

**3.7.4 Testing Data.** Contractor will gather and report information about drug and alcohol testing services provided, including:

- a. The number of tests completed and results;
- b. Whether tests were random or required by the offender's PO;
- c. The number of positive tests and the types of substances detected;
- d. The number of self-admissions;
- e. Record of violation reports

**3.7.5 Employee Training.** Contractor will ensure employees responsible for drug and alcohol testing:

- a. Are trained in the appropriate methods of collection, testing, and reporting procedures.
- b. Comply with specimen collections procedures recommended by the State.
- c. For purposes of urine collection:
  - i. Are the same gender as the offender;
  - ii. Collect specimens in a private setting;
  - iii. Observe the offender's urine flow from body to collection cup to avert adulteration or substitution of urine;
  - iv. Establish the chain of evidence for the sample at the point of collection to confirm the whereabouts of the evidence at all times;
  - v. Accurately input all appropriate testing date in the Offender Management Information System (OMIS);
  - vi. Submit positive samples for confirmatory testing when necessary;
  - vii. Report all positive samples, refusals to provide a specimen, or instances of potential specimen tampering to the PO.

### **3.8 General Requirements for Services.**

**3.8.1 Offender Orientation.** Contractor shall complete an orientation with each offender upon placement into the program.

**3.8.2 Documentation of Services and Update to the State.** Contractor will maintain written documentation of all scheduled meetings and communications related to participating offenders and provide documentation to the supervising PO when requested. Contractor will provide status updates when requested by the supervising PO or the State. Contractor will contact the supervising PO for any significant issues related to the offender (e.g. failed drug/alcohol test, failure to check in daily, etc.). Issues will be reported to the supervising PO within two (2) business days.

**3.8.3 Notification of Completion/Failure.** Contractor will complete an agreed upon *Notification of Completion/Failure* form and forward it to the supervising PO and the State upon an offender's completion or termination from services.

**3.8.4 Documentation of Services and Update to the State.** Contractor will maintain appropriate documents and store them in a locked cabinet in a locked room. All offender files are the property of the State and shall be returned to the State upon offender release from the program or upon request.

**3.9 Program Progress/Failure.** Contractor will monitor offender participation in the program and report progress/non-compliance to the supervising PO. If the Contractor believes an offender's behavior warrants removal from the program, Contractor will report the issue to the supervising PO, who will make the final decision about the offender's continued participation in the program.

**3.10 Program Recruitment, Hiring Practices, Selection, and Staffing.** Contractor will hire all program and support staff. Contractor will include a criminal background check in its hiring process for all employees and may use the process provided by the State. Contractor will provide documentation of completed criminal background checks to the State. It shall be the responsibility of the Contractor to hire and retain an adequate number of fully qualified and trained staff to ensure that the delivery of scheduled services to offenders is in accordance with the Proposal for services submitted by the Contractor to the State and with this Contract. Contractor will ensure that services are never disrupted or compromised due to employees' absences from work or because of vacant positions.

**3.11 Data Requirements.** The State owns all data associated with offenders under the custody or control of the State. Pursuant to Montana Code Annotated 44-4-1203 and at the direction of the State, Contractor will electronically enter all alcohol and drug testing data in OMIS. This data includes, but is not limited to the following:

- a. Enrollment information associated with an offender.
- b. All Test event data results.

**3.12 Offender Rights and Grievances.** Contractor shall implement and maintain a grievance and grievance appeal process for offenders to resolve complaints and report alleged violations regarding the operation of the program in a timely and confidential manner. Contractor shall report and provide copies of all grievances and resolutions to the State on a monthly basis. Allegations of abuse of offenders by Contractor's staff will be reported to the State immediately. Contractor shall provide statistical information on the number and type of grievances received, as required by the State on an annual basis or as requested.

**3.13 Unlawful Behavior by Offenders.** Contractor shall report allegations of criminal conduct by offenders to local law enforcement officials and the State. Contractor shall cooperate with any administrative or criminal investigation regarding an offender.

**3.14 Contractor Employee Training.** Contractor will develop and implement a training strategy to ensure employees obtain the following training:

- a. Gender- and culture-specific training, with emphasis on Native American culture.
- b. Basic Prison Rape Elimination Act (PREA) training and such ongoing annual training as is required by law, the State, and Contractor policy.
- c. Specialized PREA training for employees who may be first-line responders to allegations of sexual assault, rape, or sexual misconduct.
- d. Motivational Interviewing.

- e. Training specific to facilitation of cognitive behavioral-based programming for employees tasked with facilitating offender programming.

Contractor will provide proof of employee completion of mandated training prior to delivery of services.

**3.15 Training for Probation and Parole Staff.** Through coordination with the State, Contractor shall provide one (1) training per year, at no additional cost to the State, at the Missoula Probation and Parole Office. The training shall include information about the services provided by the Contractor, the referral process, communication strategies for providing status updates to POs, and other information about the services, as requested by the State.

#### **4. WARRANTIES**

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

#### **5. CONSIDERATION/PAYMENT**

**5.1 Payment Schedule.** In consideration of the ETSS services to be provided, State shall pay Contractor according to the following schedule:

- a. One (1) one-on-one meeting with offender per week: **\$5 per meeting** (maximum of one (1) allowed per offender per week).
- b. Offender check-ins with Contractor once daily up to seven (7) times per week which may include breathalyzer testing, schedule check, and attendance verification for scheduled treatment, programming, self-help, court-ordered community service, or employment meetings/shifts: **\$10.50 per meeting** (maximum of one (1) allowed per offender per day).
- c. Up to three (3) random drug/alcohol tests per week: **\$6 per drug tested** (One drug is tested per sample @ \$6, if request is for more than one drug to be tested per sample the cost will increase \$6 for each drug tested.).
- d. Development of a weekly itinerary in the community with periodic verification: **\$5 per week** (maximum of one (1) allowed per offender per week).
- e. Evidence-based, cognitive behavioral-based programming: **\$5 per session** (maximum of one (1) session per offender per week).
- f. Job development services: **\$9 per 30-minute session.**
- g. Continuous drug/alcohol testing mechanisms approved by the State:
  - i. SCRAM: **\$10 per day per offender.**
  - ii. Transdermal Alcohol Device: **\$10 per day per offender.**
- h. Electronic/GPS monitoring: **\$10 per day per offender.**
- i. Assistance with application processes for needed services: **\$5 per 30-minute session.**

#### **5.2 Total Contract Maximum.**

For State fiscal years 2020 and 2021, the contract maximum value is **\$279,606.25 per year.**

The State guarantees minimum payment of \$34,104 each fiscal year. If at the end of a fiscal year, the contractor has not invoiced the department at least \$34,104 for the services it rendered during the fiscal year, the department will pay the difference between the invoiced total and the \$34,104 guarantee minimum.

**5.3 Funding Shortages.** Parties agree to proactively monitor funds allocated and to immediately notify the other Party if funding seems inadequate to meet the needs of one or more service categories. The Parties agree to meet to discuss whether to reallocate services or redistribute funds across service categories for the remainder of the funding period.

**5.4 Withholding of Payment.** In addition to its other remedies under this Contract, at law, or in equity, State may withhold payments to Contractor if Contractor has breached this Contract. Such withholding may not be greater than, in the aggregate, **15%** of the total value of the subject statement of work or applicable contract.

**5.5 Payment Terms.** Unless otherwise noted in the solicitation document, State 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 State's electronic funds transfer payments.

**5.6 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, State is not obligated to timely pay the invoice.

**5.7 Contract Invoices.** Contractor shall submit all invoices and supporting documentation in a format provided by the State.

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

**6.1 Access to Records.** Contractor shall provide State, Legislative Auditor, or their authorized agents access to any records necessary to determine Contract compliance. State 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.)

**6.2 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.

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

Contractor may not assign, transfer, or subcontract any portion of this Contract without State's prior written consent. (18-4-141, MCA) Contractor is responsible to State 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 State under this Contract.

## **8. 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 State, under this Contract.

State agrees to defend and indemnify contractor, 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 State'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 state, its agents, employees, subcontractors' representatives under this agreement, except that arising out of the sole negligence of contractor, its appointed officials, agents, and employee.

**9. REQUIRED INSURANCE**

**9.1 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.

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

**9.3 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.

State, 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.

**9.4 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.

State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, owned, or borrowed by Contractor.

**9.5 Specific Requirements for Professional Liability.** Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors. Note: If "occurrence" coverage is unavailable or cost prohibitive, Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of this contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims

made policy must have a three-year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

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

**9.7 Certificate of Insurance/Endorsements.** A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by 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 State immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. State reserves the right to require complete copies of insurance policies at all times.

## **10. 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.

## **11. COMPLIANCE WITH DARK MONEY SPENDING DISCLOSURE REQUIREMENTS**

Contractor shall comply with the provisions of the State of Montana Executive Order No. 15-2018. Contractor shall annually submit a disclosure form to the contract liaison. Disclosure forms can be found at: [https://vendorresources.mt.gov/Portals/121/vendor\\_resources/EO\\_DECLARATION%20FORM.pdf?ver=2018-09-13-100259-243](https://vendorresources.mt.gov/Portals/121/vendor_resources/EO_DECLARATION%20FORM.pdf?ver=2018-09-13-100259-243).

All disclosures must be submitted to Contract Management Bureau, P.O. Box 201301, Helena, MT 59620-1301, for reporting on <https://transparency.mt.gov/>. Failure to comply with these requirements may result in contract termination. Contractor agrees that such a failure is a material breach of this Contract.

## **12. COMPLIANCE WITH LAWS**

**12.1 Compliance with Laws.** Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Contractor will comply with the Prison Rape Elimination Act 42 U.S.C.A. § 15601ff, the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.1.17, Prison Rape Elimination Act, and ACCD 1.1.1700 PREA to include incident reporting. Contractor shall establish a zero-tolerance policy to incidents of sexual assault/rape or sexual misconduct. Any subletting or subcontracting by Contractor subjects its subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical

conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

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

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

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

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

### **13. DISABILITY ACCOMMODATIONS**

State 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.** State 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 60 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 State's failure to perform any of its duties under this Contract after giving State 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 60 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.** State must by law cancel this Contract if funds are not appropriated or otherwise made available to support State'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, State shall cancel this Contract as required by law. State shall provide Contractor the date State's cancelation shall take effect. State shall not be liable to Contractor for any payment that would have been payable had the Contract not been canceled under this provision. As stated above, State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date State's cancelation takes effect. This is Contractor's sole remedy. State shall not be liable to Contractor for any other payments or damages arising from cancelation 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:

- a. Products or services furnished fail to conform to any requirement;
- b. Failure to submit any report required by this Contract;
- c. 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 State approval or breaching section 20.1, Technical or Contractual Problems, obligations; or
- d. Voluntary or involuntary bankruptcy or receivership.

**16.2 Event of Breach by State.** State'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, State may:

- a. 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
- b. Treat this Contract as materially breached and pursue any of its remedies under this Contract, at law, or in equity.

Upon State's material breach, Contractor may:

- a. 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
- b. 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. LIAISONS AND SERVICE OF NOTICES**

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

Dan Kissner is State's liaison  
5 S Last Chance Gulch  
Helena MT 59620-1301  
Telephone: (406) 444-6483  
E-mail: [dkissner@mt.gov](mailto:dkissner@mt.gov)

Sue Wilkins is Contractor's liaison  
2350 Mullan Road  
Missoula MT 59808  
Telephone: (406) 541-9200  
E-mail: [swilkins@m-c-s-inc.org](mailto:swilkins@m-c-s-inc.org)

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

Pat Schlauch is Department's Contract Manager  
5 S Last Chance Gulch  
Helena MT 59620-1301  
Telephone: (406) 444-4931  
E-mail: [pschlauch@mt.gov](mailto:pschlauch@mt.gov)

Sue Wilkins is Contractor's liaison  
2350 Mullan Road  
Missoula MT 59808  
Telephone: (406) 541-9200  
E-mail: [swilkins@m-c-s-inc.org](mailto:swilkins@m-c-s-inc.org)

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

**20. MEETINGS**

**20.1 Technical or Contractual Problems.** Contractor shall meet with State'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 State in the performance of their respective obligations, at no

additional cost to the State. State may request the meetings as problems arise and will be coordinated by State. State 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.

**20.2 Progress Meetings.** During the term of this Contract, State's Project Manager shall plan and schedule progress meetings with Contractor to discuss Contractor's and State's progress in the performance of their respective obligations. These progress meetings will include State's Project Manager, Contractor's Project Manager, and any other additional personnel involved in the performance of this Contract as required. At each meeting, Contractor shall provide State 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 State 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.

**20.3 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 State, 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.

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

## **21. 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 State 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. State shall pay Contractor for any resources utilized in performing such transition assistance at the most current Contract rates. If State terminates a project or this Contract for cause, then State may offset the cost of paying Contractor for the additional resources Contractor utilized in providing transition assistance with any damages State may have sustained as a result of Contractor's breach.

## **22. 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.

**23. TAX EXEMPTION**

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

**24. PERSONAL PROPERTY TAX**

All personal property taxes will be paid by the Contractor.

**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 14 numbered pages, Solicitation # **COR-RFP-2019-0163N**, and Contractor's response to the solicitation, all procedures (including Q&A Board materials), manuals, and forms which governed the procurement, as provided in ARM 2.5.202(1).

**27.2 Entire Agreement.** The documents referred to in 27.1 are the entire agreement of the parties. All prior negotiations, representations, and understandings between the parties are superseded by the Contract. Any amendment or modification of this contract must be in a written agreement signed by the parties.

**28. WAIVER**

State'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  
5 S Last Chance Gulch  
Helena MT 59601**

**MISSOULA CORRECTIONAL SERVICES, INC.  
2350 Mullan Road  
Missoula MT 59808**

BY: Megan Coy, Bureau Chief  
(Name/Title)

BY: Sue Wilkins, Director  
(Name/Title)

Missoula Correctional Services, Inc.  
Contract # COR2019-0202N-5  
Contracting Authority: 18-4-132 MCA

DocuSigned by:  
*Megan Coy*  
81BB6FEFC95846B...  
(Signature)

DATE: 11/15/2019

DocuSigned by:  
*Sue Wilkins*  
EB852FC8223C4A2...  
(Signature)

DATE: 11/14/2019

Approved as to Legal Content:

DocuSigned by:  
*Lorraine Schneider* 10/18/2019  
50C1253B257B4D4...  
Legal Counsel (Date)

Approved as to Form:

DocuSigned by:  
*Nicole Orta* 10/18/2019  
6407350C31CE4E8...  
Procurement Officer (Date)  
State Procurement Bureau

## CONTRACT AMENDMENT CONTRACT 06-051-ACCD

THIS CONTRACT AMENDMENT (**Amendment #7**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 5 S. Last Chance Gulch, Helena, Montana 59620-1301 and **Missoula Correctional Services, Inc.** (CONTRACTOR) 2350 Mullan Road Missoula, MT 59808 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 4 TIME OF PERFORMANCE provides that the parties may modify their agreement in writing; and

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

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

### 3. COMPENSATION/BILLING

4. The daily per diem rate paid to CONTRACTOR for **transitional living program (TLP) services** – provided in accordance with Section 2 (X) of this Agreement – is ~~\$21.42 per offender, per day for FY 2016 and \$21.85 per offender, per day for FY 2017~~ \$21.74 per offender, per day for FY 2018 and FY 2019. CONTRACTOR'S goal is to maintain twelve (12) offenders in this program at all times and the maximum amount paid to CONTRACTOR, as noted in Section 3(6), is based upon this goal and the corresponding dollar amount included in the contract maximum.
  
5. The daily per diem rate paid to CONTRACTOR for **enhanced supervision program (ESP) services** – provided in accordance with Section 2(Y) of this Agreement – is ~~\$15.30 per offender, per day for FY 2016 and \$15.61 per offender, per day for FY 2017~~ \$15.53 per offender, per day for FY 2018 and FY 2019 with a guarantee of payment for six (6) ESP offenders, per day, regardless of the actual number of offenders in the program. CONTRACTOR'S goal is to maintain twelve (12) offenders in this program at all times and the maximum amount paid to CONTRACTOR, as noted in Section 3(6), is based upon this goal and the corresponding dollar amount included in the contract maximum. CONTRACTOR may use a maximum of four (4) ESP slots to provide Transdermal, Alcohol Monitoring (T.A.D.) at the same rate of ~~\$15.30 per offender per day for FY 2016 and \$15.61~~ \$15.53 per offender per day for FY 2017 2018 and 2019.

For the contract period beginning July 1, ~~2016~~ 2017 and ending June 30, ~~2017~~ 2019, CONTRACTOR will provide eight (8) additional ESP slots at ~~\$15.61~~ \$15.53 per offender, per day, ~~not to exceed \$68,371.80 (sixty-eight thousand three hundred seventy one and 80/100 Dollars). This amount will not be counted toward the maximum amount paid under the contract in section 1(G)(1)(a).~~ CONTRACTOR may use the additional ESP slots to provide Transdermal, Alcohol Monitoring (T.A.D.) at the same rate of ~~\$15.61~~ \$15.53 per offender per day for FY2017.

6. Invoice amounts will be for up to ~~ninety (90)~~ ninety-four (94) male offenders and ~~twenty (20)~~ twenty-three (23) female offenders for FY ~~2016~~ 2018 and FY ~~2017-2019~~. The per diem rate for male offenders will be ~~\$63.26 (sixty-three and 26/100 dollars) per offender, per day in FY 2016 and \$64.53 (sixty-four and 53/100 dollars)~~ \$64.21 (sixty-four and 21/100 dollars)

~~per offender per day in FY 2017~~ **2018 and FY 2019. The per diem rate for female offenders will be \$81.15 (eighty one and 15/100 dollars) per offender, per day in FY 2016 and \$82.77 (eighty two and 77/100 dollars) \$82.36 (eighty-two and 36/100 dollars) per offender, per day in FY 2017** **2018 and FY 2019.** Capacity levels between male and female offenders may be adjusted within the combined capacity total to account for occasional population fluctuations. **The maximum amount paid under this Contract for FY 2016 is \$2,915,248 and for FY 2017 2018 and FY 2019 is \$2,965,038 \$3,179,738 annually.** Should CONTRACTOR bill DEPARTMENT in excess of these amounts, DEPARTMENT will not reimburse CONTRACTOR. When CONTRACTOR fills additional male beds, to compensate for deficits in the female ADP, CONTRACTOR agrees to accept the per diem rate reimbursed for male offenders.

7. ~~Within fifteen (15) working days following the last day of each calendar month, CONTRACTOR shall invoice DEPARTMENT for contractual services rendered during the preceding month using electronic invoices provided by DEPARTMENT. Electronic invoices will automatically populate as to whether offender's referral source was from an "institutional" or "non-institutional" setting. For reporting and compensation purposes, an "institutional" setting will be defined as one of the following:~~
- ~~A. Montana State Prison.~~
  - ~~B. Cascade County Detention Center.~~
  - ~~C. Dawson County Correctional Facility.~~
  - ~~D. Crossroads Correctional Center.~~
  - ~~E. Sanction, Treatment, Assessment, Revocation, and Transition Program (START). This would be cases that your PRC screening committee screens and accepts out of START that were a revocation from another PRC or the community. If a PRC resident is sanctioned to START but was originally received at your center as an Institutional placement they will remain as Institutional placement upon their return.~~
  - ~~F. Missoula Assessment and Sanction Center (MASC) The only cases that would be considered Institutional from MASC would be offenders from Missoula PRC who are sanctioned to MASC, revocations will go to START, and were originally received at Missoula PRC as an Institutional placement and will remain Institutional upon return.~~
  - ~~G. Connections Corrections Program (CCP) Only those offenders that were in an Institutional setting immediately prior to placement at CCP.~~
  - ~~H. Treasure State Correctional Training Center (TSCTC) Only those cases that were in prison immediately prior to placement at TSCTC.~~
  - ~~I. Nexus Methamphetamine Treatment Program. Only those offenders that were in an Institutional setting immediately prior to placement at Nexus.~~
  - ~~J. A DEPARTMENT approved "overflow" unit in an institution where offenders reside for more than six (6) months prior to entering prerelease.~~

~~A "non-institutional" setting will be defined as one of the following:~~

- ~~A. Missoula Assessment and Sanction Center (MASC). All DOC commits referred from MASC to a new community placement. Also includes those offenders referred from Missoula PRC as a sanction and who are returning to Missoula PRC that were originally received as a Non-Institutional referral.~~
- ~~B. Connections Corrections Program (CCP). Those cases where the offender was referred to CCP directly from the community or a Non-Institutional setting.~~

- ~~C. Treasure State Correctional Training Center (TSCTC). Those cases where the offender was referred to TSCTC directly from the community or a Non-Institutional setting.~~
- ~~D. Sanction, Treatment, Assessment, Revocation, and Transition Program (START). If an offender from your center is sanctioned to START and was originally received at your center as a Non-Institutional offender, they will remain Non-Institutional upon their return.~~
- ~~E. Parole or Conditional Release revocations being placed directly from the community.~~
- ~~F. DOC commits that were placed in your center directly from the community.~~
- ~~G. All WATCH referrals regardless of their prior placement.~~
- ~~H. Nexus Methamphetamine Treatment Program. Those cases where the offender was referred to Nexus directly from the community or a non-institutional setting.~~

16. ~~CONTRACTOR shall maintain a male population consistency of 50% institutional offenders based on a 95% occupancy rate of total contracted male beds. To determine the male offender population consistency percentage, only male resident beds will be considered. Transitional Living and Enhanced Supervision will not be included in this figure. DEPARTMENT will conduct random audits to determine if CONTRACTOR is maintaining a male population consistency of 50% institutional offenders based on a 95% occupancy rate. If the institutional offender population consistency falls below 50% of the occupancy rate for three (3) consecutive months, with adequate referrals from DEPARTMENT, DEPARTMENT will deduct 2% off the current per diem rate on the fourth month to continue on a month to month basis until CONTRACTOR regains the required population consistency. If it is determined DEPARTMENT is not providing at least 50% institutional referrals, CONTRACTOR will not be penalized. The parties agree to arbitrate the issue of adequate referrals if it is raised by CONTRACTOR, pursuant to the arbitration provisions of this Agreement DEPARTMENT shall pay CONTRACTOR at the rate CONTRACTOR alleges it would have been entitled to during the pendency of arbitration.~~
25. In addition to the daily per diem rate, DEPARTMENT will pay CONTRACTOR an additional ~~\$11.22 for FY 2016 and \$11.44 in FY 2017~~ \$11.38 per sex offender per day in FY 2018 and FY 2019 to cover the cost of additional services provided to sex offenders to include, but not be limited to, specialized case management, assistance with full or partial treatment costs, polygraph testing, and GPS monitoring to assist in their rehabilitation and transition to the community. To receive per diem reimbursement for additional sex offender services, CONTRACTOR must make a request for each applicable sex offender, to the PRC Contract Manager or designee, in writing. The written request must outline the specific services to be provided to the eligible sex offender and be submitted to and approved by DEPARTMENT prior to payment being received. Eligible sex offenders are defined as those offenders currently residing or participating in a pre-release center program for a sexual offense. CONTRACTOR may utilize up to **eleven (11) beds**, included within its current contract capacity, for this purpose, not to exceed ~~\$45,172 in FY 2016 and \$45,932~~ \$45,691 in FY 2017 2018 and FY 2019. This additional money for sex offender services is also included in the total contract maximum amounts listed in Section 3(6) above.

## 5. LIAISONS AND NOTICE

1. ~~Jamie Rogers~~ PRC Facilities Contract Manager, or designee (444-4902), 5 S. Last Chance Gulch, P.O. Box 201301, Helena, MT 59620-1301 or successor serves as DEPARTMENT liaison.

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

**DEPARTMENT**

DocuSigned by:  
*Kevin Olson*  
OF69E730A0EA445...  
\_\_\_\_\_  
Kevin Olson, Administrator  
Probation and Parole Division

6/19/2018  
Date

**CONTRACTOR**

DocuSigned by:  
*Sue Wilkins*  
EB852FC8223C4A2...  
\_\_\_\_\_  
Sue Wilkins, Director  
Missoula Correctional Services, Inc

6/21/2018  
Date

Reviewed for Legal Content by:

DocuSigned by:  
*Lorraine Schneider*  
50C1253B257B4D4...  
\_\_\_\_\_  
Legal Counsel  
Department of Corrections

6/19/2018  
Date

## CONTRACT AMENDMENT CONTRACT 06-051-ACCD

THIS CONTRACT AMENDMENT (**Amendment #6**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 5 S. Last Chance Gulch, Helena, Montana 59620-1301 and **Missoula Correctional Services, Inc.** (CONTRACTOR) 2350 Mullan Road Missoula, MT 59808 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 4 TIME OF PERFORMANCE provides that the parties may modify their agreement in writing; and

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

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

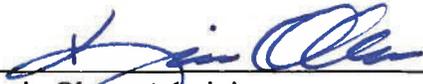
### **3. COMPENSATION/BILLING**

5. The daily per diem rate paid to CONTRACTOR for **enhanced supervision program (ESP) services** – provided in accordance with Section 2(Y) of this Agreement – is **\$15.30 per offender, per day for FY 2016 and \$15.61 per offender, per day for FY 2017** with a guarantee of payment for six (6) ESP offenders, per day, regardless of the actual number of offenders in the program. CONTRACTOR'S goal is to maintain twelve (12) offenders in this program at all times and the maximum amount paid to CONTRACTOR, as noted in Section 3(6), is based upon this goal and the corresponding dollar amount included in the contract maximum. CONTRACTOR may use a maximum of four (4) ESP slots to provide Transdermal, Alcohol Monitoring (T.A.D.) at the same rate of \$15.30 per offender per day for FY 2016 and \$15.61 per offender per day for FY 2017.

For the contract period beginning July 1, 2016 and ending June 30, 2017, CONTRACTOR will provide eight (8) additional ESP slots at \$15.61 per offender, per day not to exceed \$68,371.80 (sixty eight thousand three hundred seventy one and 80/100 Dollars). This amount will not be counted toward the maximum amount paid under the contract in section 1(G)(1)(a). CONTRACTOR may use the additional ESP slots to provide Transdermal, Alcohol Monitoring (T.A.D.) at the same rate of \$15.61 per offender per day for FY2017.

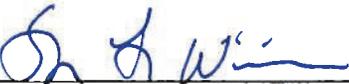
This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

**DEPARTMENT**

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

11/29/16  
\_\_\_\_\_  
Date

**CONTRACTOR**

  
\_\_\_\_\_  
Sue Wilkins, Director  
Missoula Correctional Services, Inc

12.5.16  
\_\_\_\_\_  
Date

Reviewed for Legal Content by:

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

11/22/14  
\_\_\_\_\_  
Date

## CONTRACT AMENDMENT CONTRACT 06-051-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 **Missoula Correctional Services, Inc.** (CONTRACTOR) 2350 Mullan Road Missoula, MT 59808 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 4 TIME OF PERFORMANCE provides that the parties may modify their agreement in writing; and

WHEREAS, the parties have agreed to amend the Contract language for fiscal years 2016 and 2017 as set out below,

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

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

### 3. COMPENSATION/BILLING

4. The daily per diem rate paid to CONTRACTOR for **transitional living program (TLP) services** – provided in accordance with Section 2 (X) of this Agreement – is ~~\$21.00~~ \$21.42 per offender, per day for FY 2016 and \$21.85 per offender, per day for FY 2017. CONTRACTOR'S goal is to maintain twelve (12) offenders in this program at all times and the maximum amount paid to CONTRACTOR, as noted in Section 3(6), is based upon this goal and the corresponding dollar amount included in the contract maximum.
5. The daily per diem rate paid to CONTRACTOR for **enhanced supervision program (ESP) services** – provided in accordance with Section 2(Y) of this Agreement – is ~~\$15.00~~ \$15.30 per offender, per day for FY 2016 and \$15.61 per offender, per day for FY 2017 with a guarantee of payment for six (6) ESP offenders, per day, regardless of the actual number of offenders in the program. CONTRACTOR'S goal is to maintain twelve (12) offenders in this program at all times and the maximum amount paid to CONTRACTOR, as noted in Section 3(6), is based upon this goal and the corresponding dollar amount included in the contract maximum. CONTRACTOR may use a maximum of four (4) ESP slots to provide Transdermal, Alcohol Monitoring (T.A.D.) at the same rate of ~~\$15.00~~ \$15.30 per offender per day for FY 2016 and \$15.61 per offender per day for FY 2017.
6. Invoice amounts will be for up to ninety (90) male offenders and twenty (20) female offenders for FY 2016 and FY 2017. The per diem rate for male offenders will be ~~\$60.80 (sixty and 80/100 dollars)~~ \$63.26 (sixty-three and 26/100 dollars) per offender, per day in FY 2014 2016 and \$62.02 (Sixty two and 02/100 dollars) \$64.53 (sixty-four and 53/100 dollars) per offender per day in FY 2015 2017. The per diem rate for female offenders will be ~~\$78.00 (seventy eight and 00/100 dollars)~~ \$81.15 (eighty-one and 15/100 dollars) per offender, per day in FY 2014 2016 and \$79.56 (seventy-nine and 56/100 dollars) \$82.77 (eighty-two and 77/100 dollars) per offender, per day in FY

~~2015~~ 2017. Capacity levels between male and female offenders may be adjusted within the combined capacity total to account for occasional population fluctuations. **The maximum amount paid under this Contract for FY ~~2014~~ 2016 is ~~\$2,799,525~~ \$2,915,248 and for FY ~~2015~~ 2017 is ~~\$2,850,990~~ \$2,965,038.** Should CONTRACTOR bill DEPARTMENT in excess of these amounts, DEPARTMENT will not reimburse CONTRACTOR. When CONTRACTOR fills additional male beds, to compensate for deficits in the female ADP, CONTRACTOR agrees to accept the per diem rate reimbursed for male offenders.

25. In addition to the daily per diem rate, DEPARTMENT will pay CONTRACTOR an additional ~~\$11.00~~ \$11.22 for FY 2016 and \$11.44 in FY 2017 per sex offender per day to cover the cost of additional services provided to sex offenders to include, but not be limited to, specialized case management, assistance with full or partial treatment costs, polygraph testing, and GPS monitoring to assist in their rehabilitation and transition to the community. To receive ~~the \$11.00~~ per diem reimbursement for additional sex offender services, CONTRACTOR must make a request for each applicable sex offender, to the PRC Contract Manager or designee, in writing. The written request must outline the specific services to be provided to the eligible sex offender and be submitted to and approved by DEPARTMENT prior to payment being received. Eligible sex offenders are defined as those offenders currently residing or participating in a prerelease center program for a sexual offense. CONTRACTOR may utilize up to **eleven (11) beds**, included within its current contract capacity, for this purpose, not to exceed ~~\$44,165.00~~ \$45,172 in FY ~~2014~~ 2016 and \$45,932 in FY ~~2015~~ 2017. This additional money for sex offender services is also included in the total contract maximum amounts listed in Section 3(6) above.

## 5. LIAISONS AND NOTICE

1. ~~Tedd Weldon~~ Jamie Rogers PRC Contract Manager, or designee (444-4910), 5 S. Last Chance Gulch, P.O. Box 201301, Helena, MT 59620-1301 or successor serves as DEPARTMENT liaison.

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

**DEPARTMENT**

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

7/1/15  
\_\_\_\_\_  
Date

**CONTRACTOR**

  
\_\_\_\_\_  
Sue Wilkins, Director  
Missoula Correctional Services, Inc.

7.20.15  
\_\_\_\_\_  
Date

Reviewed for Legal Content by:

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

6-25-15  
\_\_\_\_\_  
Date

**Approved for Montana Facility Finance Authority by:**

  
\_\_\_\_\_  
Executive Director

7-10-15  
\_\_\_\_\_  
Date

**CONTRACT AMENDMENT  
CONTRACT 06-051-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 **Missoula Correctional Services, Inc.** (CONTRACTOR) 2350 Mullan Road Missoula, MT 59808 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 4 TIME OF PERFORMANCE provides that the parties may modify their agreement in writing; and

WHEREAS, the parties have agreed to amend the Contract language for fiscal years 2014 and 2015 as set out below,

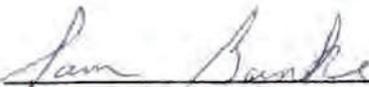
NOW THEREFORE, the parties agree to amend the Contract as follows (**new language underlined, old language interlined**):

**3. COMPENSATION/BILLING**

6. Invoice amounts will be for up to ninety (90) male offenders and twenty (20) female offenders for 2013. The per diem rate for male offenders will be \$60.80 (sixty and 80/100 dollars) per offender, per day in FY 2014 and \$62.02 (Sixty-two and 02/100 dollars) ) per offender per day in FY 2015. The per diem rate for female offenders will be \$78.00 (seventy-eight and 00/100 dollars) per offender, per day in FY 2014 and \$79.56 (seventy-nine and 56/100 dollars) per offender, per day in FY 2015. Capacity levels between male and female offenders may be adjusted within the combined capacity total to account for occasional population fluctuations. The maximum amount paid under this Contract for FY 2014 is \$2,799,525 and for FY 2015 is \$2,850,990. Should CONTRACTOR bill DEPARTMENT in excess of these amounts, DEPARTMENT will not reimburse CONTRACTOR. When CONTRACTOR fills additional male beds, to compensate for deficits in the female ADP, CONTRACTOR agrees to accept the per diem rate reimbursed for male offenders.

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

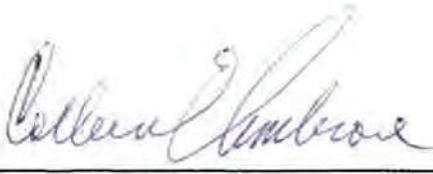
11-21-13  
\_\_\_\_\_  
Date

**CONTRACTOR**

  
\_\_\_\_\_  
Sue Wilkins, Director  
Missoula Correctional Services, Inc.

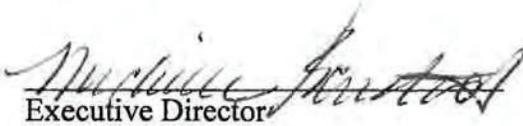
11-5-13  
\_\_\_\_\_  
Date

Reviewed for Legal Content by:

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

11/21/13  
\_\_\_\_\_  
Date

Approved for Montana Facility Finance Authority by:

  
\_\_\_\_\_  
Executive Director

12-6-13  
\_\_\_\_\_  
Date

## CONTRACT AMENDMENT CONTRACT 06-051-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 **Missoula Correctional Services, Inc.** (CONTRACTOR) 2350 Mullan Road Missoula, MT 59808 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 4 TIME OF PERFORMANCE provides that the parties may modify their agreement in writing; and

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

### 3. COMPENSATION/BILLING

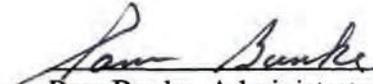
5. The daily per diem rate paid to CONTRACTOR for **enhanced supervision program (ESP) services** – provided in accordance with Section 2(Y) of this Agreement – is **\$15.00 per offender, per day**, with a guarantee of payment for six (6) ESP offenders, per day, regardless of the actual number of offenders in the program. CONTRACTOR'S goal is to maintain ~~sixteen~~ ~~(16)~~ **twelve (12)** offenders in this program at all times and the maximum amount paid to CONTRACTOR, as noted in Section 3(6), is based upon this goal and the corresponding dollar amount included in the contract maximum. CONTRACTOR may use a maximum of four (4) ESP slots to provide Transdermal, Alcohol Monitoring (T.A.D.) at the same rate of \$15.00 per offender per day.
  
6. Invoice amounts will be for up to ninety (90) male offenders and twenty (20) female offenders for ~~2011~~ 2012. The per diem rate for male offenders will be **\$59.02 (fifty nine and 02/100 dollars) per offender, per day in FY ~~2011~~ 2012 and \$59.61 (fifty nine and 61/100 dollars) per offender per day in FY 2013.** The per diem rate for female offenders will be **\$75.71 per offender, per day in FY ~~2011~~ 2012 and \$76.47(seventy six and 47/100 dollars) per offender, per day in FY2013.** Capacity levels between male and female offenders may be adjusted within the combined capacity total to account for occasional population fluctuations. **The maximum amount paid under this Contract for FY ~~2011~~ 2012 is \$2,750,014.00 for FY ~~2011~~ 2013 is \$2,749,264.50.** Should CONTRACTOR bill DEPARTMENT in excess of these amounts, DEPARTMENT will not reimburse CONTRACTOR. When CONTRACTOR fills additional male beds, to compensate for deficits in the female ADP, CONTRACTOR agrees to accept the per diem rate reimbursed for male offenders.

### 5. LIAISONS AND NOTICE

1. ~~Judy Little~~, Tedd Weldon PRC Contract Manager, or designee (444-4910), 5 S. Last Chance Gulch, P.O. Box 201301, Helena, MT 59620-1301 or successor serves as DEPARTMENT liaison.

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

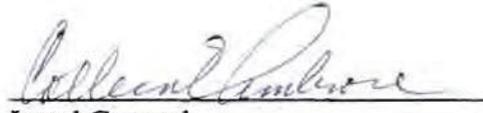
2-18-13  
Date

**CONTRACTOR**

  
Sue Wilkins, Director  
Missoula Correctional Services, Inc.

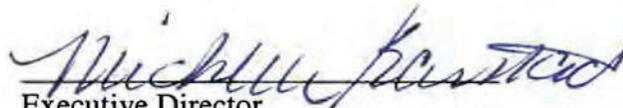
03-05-13  
Date

Reviewed for Legal Content by:

  
Legal Counsel  
Department of Corrections

2/13/13  
Date

Approved for Montana Facility Finance Authority by:

  
Executive Director

2-26-13  
Date

**CONTRACT AMENDMENT  
CONTRACT #06-051-ACCD**

THIS CONTRACT AMENDMENT (**Amendment #2**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 5 South Last Chance Gulch, Helena, Montana 59601 and **Missoula Correctional Services, Inc.** (CONTRACTOR) 2350 Mullan Road, Missoula MT 59808 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 19 provides that the parties may modify their agreement in writing.

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

**2. DUTIES AND RESPONSIBILITIES OF THE PARTIES**

**Lead in paragraphs and sub-sections A-D.** No Changes

**E. OFFENDER MISCONDUCT & REMOVAL FROM FACILITY**

1. No Changes

2. Disciplinary Procedures

a. No Changes

b. In accordance with DOC 3.4.1, Adult Institutional Discipline, and P&P 140-1, Adult Offender Discipline and Disciplinary Hearings, ~~CONTRACTOR may internally handle Class II violations, subject to consultation with a hearing officer prior to finalizing a disciplinary decision.~~ **CONTRACTOR** agrees to forward all Class I and Class II violations to the hearing officer. All violation codes used by **CONTRACTOR** will be consistent with established DEPARTMENT guidelines.

c-e. No Changes

3-4. No Changes

**F-P.** No Changes

**Q. LENGTH OF STAY**

Offenders shall not ~~reside in FACILITY~~ participate in prerelease programming for more than ~~180~~ 200 days without prior written approval from the Prerelease Center (PRC) Contract Programs Manager or designee. Offender completion of residential prerelease programming and the Transitional Living Program (TLP) should occur within 200 days. Consideration for extension of an offender's stay will be given based upon written information contained in Length of Stay Requests and individual offender circumstances.

R-W. No Changes

X. TRANSITIONAL LIVING PROGRAM (TLP)

In accordance with DOC 5.8.3, Transitional Living Program for Adult Offenders, attached and incorporated herein by reference, CONTRACTOR agrees to provide (TLP) services to offenders as approved by DEPARTMENT. Completion of TLP will be mandatory for all eligible offenders. Eligible offenders are considered to be those offenders completing the prerelease program and releasing to the local community after TLP completion. Exceptions to eligible offender's mandatory completion will be determined by DEPARTMENT at CONTRACTOR'S written request, with consideration based upon contracted TLP maximums and individual circumstances. CONTRACTOR agrees to allow offenders who have not completed all treatment mandates to participate in TLP, as long as they are projected to have these finished before parole or conditional release. At a minimum, TLP will include ~~a review to determine the offender's appropriateness for the program,~~ a structured orientation to the program through a group or individual process, weekly documented one-on-one meetings with the offender's assigned TLP Case Manager, daily offender check-ins with Facility staff, one on-site collateral check and offender house check weekly, random urinalysis and breathalyzer testing, development of a weekly offender itinerary with periodic verification by Facility staff, maintenance of treatment programming, and referral to appropriate community resources if necessary. Electronic monitoring is optional. CONTRACTOR will ensure that TLP staff maintains written documentation of all scheduled groups, meetings and communications relative to supervised offenders, subject to DEPARTMENT review.

Y. ENHANCED SUPERVISION PROGRAM (ESP)

In accordance with P & P Policy 140-3, Sanction Programs, CONTRACTOR agrees to provide (ESP) services to offenders as referred and approved by DEPARTMENT Probation and Parole Bureau. Offenders currently serving time on a sexual offense, who are referred to ESP, will be screened by CONTRACTOR'S prerelease screening committee prior to placement. ESP screening denials must be in writing and include the specific reasons for denial. CONTRACTOR will discuss all denials with the PRC Contract Manager and the local Regional Administrator within ten (10) days of offender screening. At a minimum, ESP services will include daily offender check-ins with Facility staff, daily breathalyzer testing, and one random urinalysis per week after 5:00 p.m. and/or on weekends. In addition, offender services options may include: development of a weekly itinerary with periodic verification by Facility personnel; additional random urinalysis; participation in Cognitive Principles and Restructuring (CP&R) groups; job development services; and where available, participation in or referral to Chemical Dependency Assessment, Treatment, or Aftercare; and 24-hour Secure, Continuous, Remote Alcohol Monitoring (SCRAM). CONTRACTOR will ensure that ESP staff maintains written documentation of all scheduled meetings and communications relative to supervised offenders, subject to DEPARTMENT review. ~~CONTRACTOR will submit monthly reports to Contract Program Manager for one (1) year following inception of its ESP Program. This report should include a current list of offenders on the ESP caseload, number of referrals that month, type of referral, (probation, parole, conditional release violator) referral source, number of days ordered, and completion information.~~

## Z. EMERGENCY & DISASTER PLAN

1. CONTRACTOR shall maintain written procedures to provide for the continued operation of the program in the event of an employee work stoppage, emergency, or disaster. The procedures shall include, but not limited to: assignment of tasks and responsibilities, instructions for the use of alarm systems, notification of authorities, use of special emergency equipment, and specifications of escape routes and procedures. The emergency evacuation routes shall be posted at highly visible locations and explained to each new offender at orientation. The Facility shall conduct and maintain documentation of quarterly drills and evaluate the effectiveness of disaster procedures.
2. CONTRACTOR must, within two (2) years of the execution of this Addendum, have an Emergency Operations Plan and Continuity of Operations Plan that are in accordance with the National Incident Management System, Incident Command System, and DEPARTMENT Emergency Operations Plan and Continuity of Operation Plan. These plans must be approved by DEPARTMENT. Approval of the plan will not be unreasonably withheld. DEPARTMENT will provide training and assistance in developing the plans.
3. CONTRACTOR must have a written Contingency Plan approved by DEPARTMENT that addresses the following:
  - a. An identified alternate location(s) for offenders to reside for approximately thirty (30) days and that provides adequate life support resources (i.e. food, shelter, water, personal hygiene) in the event of a natural or man-made event (i.e. earthquake, wildfire, prolonged/catastrophic utility failure, etc.) which renders the facility uninhabitable. Approval of the plan will not be unreasonably withheld. DEPARTMENT will provide training and assistance in developing the plan.

### ~~AA. GPS Monitoring~~

~~CONTRACTOR may provide GPS monitoring for up to ten (10) "hard to place" offenders from either the BOPP's list of approved offenders for parole who have been approved for a pre-release or the IPPO's list of offenders who are denied at all pre-releases.~~

~~CONTRACTOR may provide GPS units to monitor offenders who have been charged with a Class II major violation and are awaiting a hearing. GPS usage will begin when an offender is served with the violation notice and end when the offender has completed the hearing, not to include the time awaiting an appeal of a hearing decision.~~

### 3. COMPENSATION/BILLING

DEPARTMENT agrees to pay a daily per diem rate, where "daily" means each day, or part of day, including the first day but not the last day of confinement in a pre-release facility. CONTRACTOR and DEPARTMENT agree that program numbers may fluctuate between programs, but the maximum amount paid to CONTRACTOR – as identified in subsection 6 below – will not be exceeded. DEPARTMENT shall compensate CONTRACTOR for successful delivery of services provided pursuant to Section 2, in the following manner:

1. No Changes.
2. No Changes
3. **DEPARTMENT shall pay CONTRACTOR a share of fifty thousand and 00/100 dollars (\$50,000) per fiscal year to be allocated by contract capacity between Alternatives, Inc., Great Falls Prerelease Services, Inc., Missoula Correctional Services, Inc., Community, Counseling & Correctional Services, Inc., and Boyd Andrew Community Services to pay for expenses related to stipend requests, and allocated by Facility contract capacity. Missoula Correctional Services, Inc. allocation amount for ~~FY 2008~~ will be ~~\$8,272.00~~ FY 2010 was \$7,079.00 and ~~\$7,254.00~~ will be \$7,079.00 for FY ~~2009~~ 2011. This amount will not be counted toward the maximum amount paid under the contract in section 3(6).**
4. **~~DEPARTMENT agrees to purchase transitional living services (TLP) as set forth in Section 2(X) of this Agreement for a maximum of twelve (12) offenders at the rate of \$21.00 per offender, per day, effective September 11, 2007.~~ The daily per diem rate paid to CONTRACTOR for transitional living program (TLP) services – provided in accordance with Section 2 (X) of this Agreement – is \$21.00 per offender, per day. CONTRACTOR’S goal is to maintain twelve (12) offenders in this program at all times and the maximum amount paid to CONTRACTOR, as noted in Section 3(6), is based upon this goal and the corresponding dollar amount included in the contract maximum.**
5. **~~DEPARTMENT agrees to purchase enhanced supervision program (ESP) services as set forth in Section 2(Y) of this Agreement for a maximum of twelve (12) offenders at a rate of \$15.00 per offender, per day.~~ The daily per diem rate paid to CONTRACTOR for enhanced supervision program (ESP) services – provided in accordance with Section 2(Y) of this Agreement – is \$15.00 per offender, per day, with a guarantee of payment for six (6) ESP offenders, per day, regardless of the actual number of offenders in the program. CONTRACTOR’S goal is to maintain sixteen (16) offenders in this program at all times and the maximum amount paid to CONTRACTOR, as noted in Section 3(6), is based upon this goal and the corresponding dollar amount included in the contract maximum. CONTRACTOR may use a maximum of four (4) ESP slots to provide Secure, Continuous, Remote, Alcohol Monitoring (SCRAM) at the same rate of \$15.00 per offender per day.**
6. **Invoice amounts will be for up to ninety (90) male offenders and twenty (20) female offenders for ~~FY 2008 and FY 2009~~ 2011. The per diem rate for male offenders will be \$59.02 per offender, per day in FY 2011. The per diem rate for female offenders will be \$75.71 per offender, per day in FY 2011. Capacity levels between male and female offenders may be adjusted within the combined capacity total to account for occasional population fluctuations. The maximum amount paid under this Contract for ~~FY 2008 is \$2,780,525.62 and \$2,830,428.99~~ FY 2011 is \$2,746,235.00 for ~~FY 2009~~. Should CONTRACTOR bill DEPARTMENT in excess of these amounts, DEPARTMENT will not reimburse CONTRACTOR. When CONTRACTOR fills additional male beds, to compensate for deficits in the female ADP, CONTRACTOR agrees to accept the per diem rate reimbursed for male offenders.**
7. **Within fifteen (15) working days following the last day of each calendar month, CONTRACTOR shall invoice DEPARTMENT for contractual services rendered during the preceding month using electronic invoices provided by DEPARTMENT. Electronic invoices will automatically populate as to whether offender’s referral source was from an**

~~“institutional” or “non-institutional” setting. For reporting and compensation purposes, an “institutional” setting will be defined as one of the following: Montana State Prison, a regional or private prison, Sanction, Treatment, Assessment, Revocation, and Transition (START) Program, except when a non-institutional offender is at CONTRACTOR’S facility, is temporarily sanctioned to START from CONTRACTOR’S facility and returns directly to CONTRACTOR’S facility from START after the sanction period.~~

~~A “non-institutional” setting will be defined as START only when a non-institutional offender is at CONTRACTOR’S facility, is temporarily sanctioned to START from CONTRACTOR’S facility and returns directly to CONTRACTOR’S facility from START after the sanction period, the Missoula Assessment and Sanctioning Center (MASC), the Connections Corrections Program (CCP), Warm Springs Addiction Treatment and Change Program (WATCH), Treasure State Correctional Training Center (TSCTC), NEXUS, parole or conditional release revocations coming directly from the community, and DOC commitments being placed directly from the community, with the exception of those offenders who were in prison immediately prior to placement at TSCTC or CCP.~~

- A. Montana State Prison.
- B. Cascade County Detention Center.
- C. Dawson County Correctional Facility.
- D. Crossroads Correctional Center.
- E. Sanction, Treatment, Assessment, Revocation, and Transition Program (START). This would be cases that your PRC screening committee screens and accepts out of START that were a revocation from another PRC or the community. If a PRC resident is sanctioned to START but was originally received at your center as an Institutional placement they will remain as Institutional placement upon their return.
- F. Missoula Assessment and Sanction Center (MASC) The only cases that would be considered Institutional from MASC would be offenders from Missoula PRC who are sanctioned to MASC, revocations will go to START, and were originally received at Missoula PRC as an Institutional placement and will remain Institutional upon return.
- G. Connections Corrections Program (CCP) Only those offenders that were in an Institutional setting immediately prior to placement at CCP.
- H. Treasure State Correctional Training Center (TSCTC) Only those cases that were in prison immediately prior to placement at TSCTC.
- I. Nexus Methamphetamine Treatment Program. Only those offenders that were in an Institutional setting immediately prior to placement at Nexus.
- J. A DEPARTMENT approved “overflow” unit in an institution where offenders reside for more than six (6) months prior to entering prerelease.

A “non-institutional” setting will be defined as one of the following:

- A. Missoula Assessment and Sanction Center (MASC). All DOC commits referred from MASC to a new community placement. Also includes those offenders referred from Missoula PRC as a sanction and who are returning to Missoula PRC that were originally received as a Non-Institutional referral.
- B. Connections Corrections Program (CCP). Those cases where the offender was referred to CCP directly from the community or a Non-Institutional setting.

- C. Treasure State Correctional Training Center (TSCTC). Those cases where the offender was referred to TSCTC directly from the community or a Non-Institutional setting.
- D. Sanction, Treatment, Assessment, Revocation, and Transition Program (START). If an offender from your center is sanctioned to START and was originally received at your center as a Non-Institutional offender, they will remain Non-Institutional upon their return.
- E. Parole or Conditional Release revocations being placed directly from the community.
- F. DOC commits that were placed in your center directly from the community.
- G. All WATCH referrals regardless of their prior placement.
- H. Nexus Methamphetamine Treatment Program. Those cases where the offender was referred to Nexus directly from the community or a non-institutional setting.

Invoices are subject to audit and adjustment by DEPARTMENT before and after payment is made. Unless such invoice is subjected to a special review or audit, CONTRACTOR is entitled to payment, or written explanation of exception, within 15 days of DEPARTMENT receiving a correct invoice.

8. This sub-section was deleted in Amendment #1.

~~9. Beginning July 1, 2007, and ending June 30, 2008, if CONTRACTOR does not meet the minimum requirements of a 90-95% bed occupancy rate per month, or maintenance of a male offender population consisting of no less than 50% nor more than 65% from an "institutional" setting per month, DEPARTMENT will pay CONTRACTOR a per diem rate of at least \$54.13 per offender, per day for male offenders from both an "institutional" and "non-institutional" setting and \$73.49 per offender per day for female offenders. \*NOTE: Should CONTRACTOR'S "institutional" offender population ever exceed 65% of their total capacity during FY 2008, CONTRACTOR will not be penalized for this, however, a higher per diem rate will only be paid for up to 65% and not above.~~

10. This sub-section was deleted in Amendment #1.

~~11. From July 1, 2007 through June 30, 2008, should CONTRACTOR maintain a bed occupancy rate of 90% and a male offender population consisting of at least 50% and no more than 65% originating from an "institutional" setting, DEPARTMENT will pay CONTRACTOR a per diem rate of \$58.33 per offender, per day for male offenders referred from an "institutional setting" and \$53.08 per offender per day for males from a "non-institutional" setting and \$73.49 per female offender per day.~~

~~12. From July 1, 2007 through June 30, 2008, should CONTRACTOR maintain a bed occupancy rate of 95% and an offender population consisting of at least 50% and no more than 65% from an "institutional" setting, DEPARTMENT will pay CONTRACTOR a per diem rate of \$60.44 per offender, per day for male offenders from an "institutional" setting and \$53.08 per offender, per day, for male offenders from a "non-institutional" setting and \$73.49 per offender per day for female offenders.~~

~~13. Beginning July 1, 2008 and ending June 30, 2009, if CONTRACTOR does not meet the minimum requirements of a 90-95% bed occupancy rate per month, or maintenance of a male~~

~~offender population consisting of no less than 50% nor more than 65% from an "institutional" setting per month, DEPARTMENT will pay CONTRACTOR a per diem rate of at least \$55.21 per offender, per day for male offenders from both an "institutional" and "non-institutional" setting and \$74.96 per offender per day for female offenders. \*NOTE: Should CONTRACTOR'S "institutional" offender population ever exceed 65% of their total capacity during FY 2009, CONTRACTOR will not be penalized for this, however, a higher per diem rate will only be paid for up to 65% and not above.~~

~~14. Fiscal Year 2009 (July 1, 2008 through June 30, 2009), should CONTRACTOR maintain a bed occupancy rate of 90% and a male offender population consisting of at least 50% and no more than 65% originating from an "institutional" setting per month, DEPARTMENT will pay CONTRACTOR a per diem rate of \$59.50 per offender, per day for male offenders from an "institutional" setting and \$54.14 per offender, per day for male offenders from a "non-institutional" setting and \$74.96 per offender per day for female offenders.~~

~~15. Fiscal Year 2009 (July 1, 2008 through June 30, 2009), should CONTRACTOR maintain a bed occupancy rate of 95% and a male offender population consisting of at least 50% and no more than 65% originating from an "institutional" setting per month, DEPARTMENT will pay CONTRACTOR a per diem rate of \$61.64 per offender, per day for male offenders from an "institutional" setting and \$54.14 per offender, per day for male offenders from a "non-institutional" setting and \$74.96 per offender, per day for female offenders.~~

16. CONTRACTOR shall maintain a male population consistency of 50% institutional offenders based on a 95% occupancy rate of total contracted male beds. To determine the bed occupancy percentage, female beds, Transitional Living services, and Enhanced Supervision beds, will not be included in this figure or in the offender population consistency percentage. Only male beds will be considered. CONTRACTOR will determine appropriate per diem pay plan to bill each month, and note this on its monthly invoice. DEPARTMENT will conduct random audits of CONTRACTOR'S monthly billing invoice. DEPARTMENT shall make adequate referrals to CONTRACTOR to allow CONTRACTOR to maintain a male bed occupancy rate of 95%. To determine the male offender population consistency percentage, only male resident beds will be considered. Transitional Living and Enhanced Supervision will not be included in this figure. DEPARTMENT will conduct random audits to determine if CONTRACTOR is maintaining a male population consistency of 50% institutional offenders based on a 95% occupancy rate. If the institutional offender population consistency falls below 50% of the occupancy rate for three (3) consecutive months, with adequate referrals from DEPARTMENT, DEPARTMENT will deduct 2% off the current per diem rate on the fourth month to continue on a month to month basis until CONTRACTOR regains the required population consistency. If it is determined DEPARTMENT is not providing at least 50% institutional referrals, CONTRACTOR will not be penalized. The parties agree to arbitrate the issue of adequate referrals if it is raised by CONTRACTOR, pursuant to the arbitration provisions of this Agreement. DEPARTMENT shall pay CONTRACTOR at the rate CONTRACTOR alleges it would have been entitled to during the pendency of arbitration.

17. DEPARTMENT shall not reimburse CONTRACTOR for any offender whose length of stay extends beyond ~~180~~ 200 days unless specifically authorized and approved in writing by the PRC Contract Programs Manager or designee prior to the expiration of the ~~180~~ 200-day period. For good cause shown, as determined in the sole discretion of the PRC Contract Programs Manager, exercised in good faith, DEPARTMENT may reimburse CONTRACTOR

beyond the ~~180~~ 200-day period. DEPARTMENT will assume custody of the offender at the end of the ~~180~~ 200-day period if DEPARTMENT and CONTRACTOR have not come to an alternative agreement.

18-19. No Changes

20. The conditions of reimbursement outlined above are effective for Fiscal Years ~~2008 and 2009~~ 2011. CONTRACTOR retains the right to renegotiate for Fiscal Year ~~2010~~ 2012 with the guarantee that compensation by DEPARTMENT will not be less than compensation paid in Fiscal Year ~~2009~~ 2011, subject to availability of funding. While the parties are renegotiating CONTRACTOR'S compensation, DEPARTMENT shall continue to compensate CONTRACTOR at the same rate as the previous fiscal year. After renegotiations have concluded, DEPARTMENT shall compensate CONTRACTOR at the new compensation rate retroactive to the beginning of the fiscal year.
21. In order to provide financing of CONTRACTOR'S prerelease center facility and improvements to such facility in October, 1998 CONTRACTOR requested the issuance of \$5,580,000 in tax-exempt bonds (the "Bonds") by the Montana Health Facility Authority (currently known as the Montana Facility Finance Authority and referred to herein as "MFFA") and a loan of the proceeds of the Bonds to CONTRACTOR pursuant to Montana Code Annotated Sections 90-7-226 through 228. As security for the Bonds, the MFFA required a written contract for services between CONTRACTOR and DEPARTMENT, which was executed August 8, 1998 and approved by MFFA pursuant to Section 90-7-226(1) MCA (the "August 1998 Contract"). The August 1998 Contract required DEPARTMENT to commit to the following provisions during the term of the Bonds (and DEPARTMENT hereby ratifies these commitments in this contract):
- a. Payment by DEPARTMENT for additional reimbursement for the cost of the new facility and the maintenance of a 115% debt service coverage for the MFFA Bonds. In order to determine compliance with the Debt Service Coverage Requirement, DEPARTMENT will review CONTRACTOR'S yearly (audited) financial statements and quarterly expense and revenue statements that include explanatory cover letters provided by CONTRACTOR'S accountant. CONTRACTOR agrees to provide DEPARTMENT with the quarterly statements within sixty (60) calendar days of the end of each quarter.
  - b. A guaranty of payment by DEPARTMENT for 75% of the contracted bed space. The amount of payment is designed to cover CONTRACTOR'S fixed costs for a guaranteed 75% of contracted bed space.
  - c. As part of the compensation and deducted monthly from DEPARTMENT'S regular payments to CONTRACTOR, on August 15<sup>th</sup> of each year, DEPARTMENT shall pay, on behalf of CONTRACTOR, to U.S. Bank National Association, as Trustee (the "Trustee") of the Bonds under an Indenture of Trust dated as of September 1, 1998, (the "Indenture"), the following amounts:
    - i. the principal of and interest on the Bonds coming due in the following 12 months;

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

The parties hereto agree that the provisions of the Sections 3(1) through 3(20) above are not intended to replace or conflict with the commitments stated in this Section 3(21). CONTRACTOR agrees to use its best efforts to provide bed space to maintain the occupancy and population consistency rates for DEPARTMENT referrals as described in Sections 3(9) through 3(17) above.

22. No Changes

~~23. DEPARTMENT shall pay CONTRACTOR a one-time payment of \$2.00 (two and 00/100 dollars) per offender, per day, for actual population during the time period of October 1, 2007 through December 31, 2007 (92 days) for lost time not being able to charge the increased rate.~~

~~24. DEPARTMENT shall pay CONTRACTOR \$11.00 (eleven and 00/100 dollars) per offender, per day, for offenders placed under GPS monitoring by CONTRACTOR.~~

25. In addition to the daily per diem rate, DEPARTMENT will pay CONTRACTOR an additional \$11.00 per sex offender per day to cover the cost of additional services provided to sex offenders to include, but not be limited to, specialized case management, assistance with full or partial treatment costs, polygraph testing, and GPS monitoring to assist in their rehabilitation and transition to the community. To receive the \$11.00, CONTRACTOR must make a request for each applicable sex offender, to the PRC Contract Manager or designee, in writing. The written request must outline the specific services to be provided to the eligible sex offender and be submitted to and approved by DEPARTMENT prior to payment being received. Eligible sex offenders are defined as those offenders currently residing or participating in a prerelease center program for a sexual offense. CONTRACTOR may utilize up to eleven (11) beds, included within its current contract capacity, for this purpose, not to exceed \$44,165.00 in FY 2011. This additional money for sex offender services is also included in the total contract maximum amounts listed in Section 3(6) above.

26. DEPARTMENT shall pay CONTRACTOR for resident beds left temporarily vacant by offenders who are serving a sanction, and not a revocation, to the START Program and who will be returning to the prerelease center they were sanctioned from within a thirty (30) day time period. DEPARTMENT will not compensate CONTRACTOR for sanctions lasting longer than 30 days unless approved in writing by DEPARTMENT.

#### 4. TIME OF PERFORMANCE

This agreement shall take effect on July 1, 2005 and shall terminate on June 30, 2025. On or about March 1, 2007 and every two years thereafter during the term of this Agreement, the parties will meet to review the number of beds to be provided and the compensation rates described in Section 3

of this Agreement, as well as all other rates for services listed in this contract and, upon presentation of reasonable documentation, agree to amend the Agreement as necessary.

Upon expiration of this Contract, and in the absence of 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.

## 5. LIAISONS AND NOTICE

1. ~~Michelle Jenick~~ Judy Little or designee, PRC Contract Programs Manager (444-4910), 4539 11<sup>th</sup> Avenue, 5 South Last Chance Gulch, P.O. Box 201301, Helena, MT 59620-1301 or successor serves as DEPARTMENT liaison.

2-4. No Changes

## 26. PREVAILING WAGE REQUIREMENTS

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

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

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

The standard prevailing rate of wages paid to workers under any public works contract that, by the terms of the original contract, calls for more than 30 months to perform must be adjusted 12 months after the date of the award of the public works contract per section 18-2-417, MCA. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract. This adjustment is the sole responsibility of the contractor and no cost adjustment in this contract will be allowed to fulfill this requirement.

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. Each contractor, subcontractor, and employer must maintain payroll records in a manner readily capable of being certified for submission under section 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract.

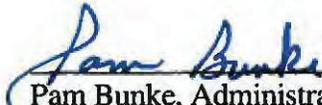
All contractors and employers shall classify each employee who performs labor on a public works project according to the applicable standard prevailing rate of wages for such craft, classification, or type of employee established by the Commissioner of the Montana Department of Labor and Industry, and shall pay each such employee a rate of wages not less than the standard prevailing rate as specified in the Montana Prevailing Wages Rates for Nonconstruction Services 2009. The booklet containing these 2009 rates is attached to this Contract and made a part thereof by reference. This information is also available electronically at the following address: <http://erd.dli.state.mt.us/laborstandard/wagehrprevail.asp>.

3. Disagreement regarding public works contract. DEPARTMENT has included the above language because it believes this contract is a public works contract under Montana law and CONTRACTOR must pay appropriate employees the standard prevailing wage. CONTRACTOR disagrees with DEPARTMENT'S view. By including sections 26.1 and 26.2 above, CONTRACTOR does not waive any right it may have to not pay standard prevailing wages and contest DEPARTMENT'S position. CONTRACTOR acknowledges that under § 18-2-407, MCA, an employer who pays employees at less than the standard prevailing wage may be subject to forfeitures and penalties.

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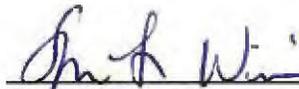
This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

**DEPARTMENT**

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

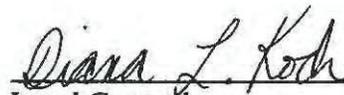
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Date

**CONTRACTOR**

  
\_\_\_\_\_  
Sue Wilkins, Director  
Missoula Correctional Services, Inc.

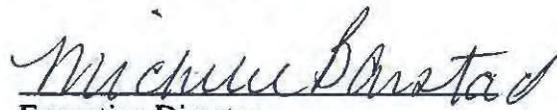
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Date

Reviewed for Legal Content by:

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

3/28/11  
\_\_\_\_\_  
Date

Approved for Montana Facility Finance Authority by:

  
\_\_\_\_\_  
Michelle Barstad  
Executive Director

4-5-11  
\_\_\_\_\_  
Date

**ADDENDUM TO  
CONTRACT #06-051-ACCD**

The Montana Department of Corrections, (DEPARTMENT), and Missoula Correctional Services, Inc., (CONTRACTOR), enter into this Addendum to Contract #06-051-ACCD entered into between the parties to be effective July 1, 2005 and terminate June 30, 2025 (CONTRACT). The parties 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

Missoula Correctional Services, Inc.  
2350 Mullan Road  
Missoula, MT 59808  
(406) 541-9200

This Addendum is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract #06-051-ACCD which in Section 4 indicates that on or about March 1, 2007 and every two (2) years thereafter during the term of the Agreement, the parties will meet to review the number of beds to be provided and the compensation rates in Section 3 of the Agreement, as well as other rates for services listed in the Contract and, upon presentation of reasonable documentation, agree to amend the Contract as necessary; and,

WHEREAS, the parties have reached agreement with regard to compensation rates as well as rates for services listed in the Contract and wish to reduce those agreements to writing,

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

**2. DUTIES AND RESPONSIBILITIES OF THE PARTIES**

**Lead in and Sections A – R – No changes.**

**S. OFFENDER FEES**

1. No Changes
2. No Changes
3. CONTRACTOR may charge up to ~~\$12.00~~ \$14.00/day for room and board each day of the offender's residence. Effective September 1, 2005, CONTRACTOR agrees not to charge any additional percentage of an offender's net earnings for room and board. After an offender's absence from the facility for seven (7) consecutive working days, the facility shall suspend the charge until the offender returns, unless an exception is approved through the Contract Programs Manager. CONTRACTOR may charge up to \$4.00/day for an offender engaged in CONTRACTOR'S transitional living program.
4. No Changes

5. No Changes

**T-Z No Changes**

**AA. GPS Monitoring**

CONTRACTOR may provide GPS monitoring for up to ten (10) "hard to place" offenders from either the BOPP's list of approved offenders for parole who have been approved for a pre-release or the IPPO's list of offenders who are denied at all pre-releases.

CONTRACTOR may provide GPS units to monitor offenders who have been charged with a Class II major violation and are awaiting a hearing. GPS usage will begin when an offender is served with the violation notice and end when the offender has completed the hearing, not to include the time awaiting an appeal of a hearing decision.

**3. COMPENSATION/BILLING**

DEPARTMENT agrees to pay a daily per diem rate, where "daily" means each day, or part of day, including the first day but not the last day of confinement in a pre-release facility. DEPARTMENT shall compensate CONTRACTOR for successful delivery of services provided pursuant to Section 2, in the following manner:

1. No Change

2. No Change

3. **DEPARTMENT shall pay CONTRACTOR a share of fifty thousand and 00/100 dollars (\$50,000) per fiscal year** to be allocated by contract capacity between Alternatives, Inc., Great Falls Prerelease Services, Inc., Missoula Correctional Services, Inc., Community, Counseling & Correctional Services, Inc., and Boyd Andrew Community Services to pay for expenses related to stipend requests, and allocated by Facility contract capacity. **Missoula Correctional Services, Inc. allocation amount for FY ~~2006~~ 2008 will be \$8,272.00 and \$7,254.00 for FY ~~2007~~ 2009.**

4. DEPARTMENT agrees to purchase **transitional living services (TLP)** as set forth in Section 2(X) of this Agreement for a maximum of twelve (12) offenders at the rate of **~~\$17.42~~ \$21.00 per offender, per day, effective September 11, 2007.**

5. No Change

6. Invoice amounts will be for up to ninety (90) male offenders and twenty (20) female offenders for FY ~~2006~~ 2008 and FY ~~2007~~ 2009. Capacity levels between male and female offenders may be adjusted within the combined capacity total to account for occasional population fluctuations. **The maximum amount paid under this Contract for FY ~~2006~~ 2008 is ~~\$2,501,766.80~~ \$2,780,525.62 and ~~\$2,611,528.24~~ \$2,830,428.99 for FY ~~2007~~ 2009.** Should CONTRACTOR bill DEPARTMENT in excess of these amounts, DEPARTMENT will not reimburse CONTRACTOR. When CONTRACTOR fills additional male beds, to compensate for deficits in the female ADP, CONTRACTOR agrees to accept the per diem rate reimbursed for male offenders.

7. Within fifteen (15) working days following the last day of each calendar month, CONTRACTOR shall invoice DEPARTMENT for contractual services rendered during the preceding month using electronic invoices provided by DEPARTMENT. Electronic invoices will automatically populate as to whether offender's referral source was from an "institutional" or "non-institutional" setting. For reporting purposes, an "institutional" setting will be defined as Montana State Prison, ~~Montana Women's Prison~~, a regional or private prison, Sanction, Treatment, Assessment, Revocation, and Transition (START) Program, except when a non-institutional offender is at CONTRACTOR'S facility, is temporarily sanctioned to START from CONTRACTOR'S facility and returns directly to CONTRACTOR'S facility from START after the sanction period.

A "non-institutional" setting will be defined as START only when a non-institutional offender is at CONTRACTOR'S facility, is temporarily sanctioned to START from CONTRACTOR'S facility and returns directly to CONTRACTOR'S facility from START after the sanction period, the Missoula Assessment and Sanctioning Center (MASC), ~~Billings Assessment and Sanctioning Center (BASC)~~, the Connections Corrections Program (CCP), Warm Springs Addiction Treatment and Change Program (WATCH), Treasure State Correctional Training Center (TSCTC), NEXUS, parole or conditional release revocations coming directly from the community, and DOC commitments being placed directly from the community, with the exception of those offenders who were in prison immediately prior to placement at TSCTC or CCP.

- ~~8. During the transition period from July 1, 2005 to October 1, 2005, DEPARTMENT will pay CONTRACTOR a per diem rate of at least \$53.58 per offender, per day for male offenders and \$71.36 per offender, per day for female offenders, with no requirement for a 90-95% bed occupancy rate, or maintenance of a male offender population consisting of no less than 50% or more than 65% from an "institutional" setting (4% increase).~~
9. Beginning ~~October 1, 2005~~ July 1, 2007, and ending June 30, ~~2006~~ 2008, if CONTRACTOR does not meet the minimum requirements of a 90-95% bed occupancy rate per month, or maintenance of a male offender population consisting of no less than 50% nor more than 65% from an "institutional" setting per month, DEPARTMENT will pay CONTRACTOR a per diem rate of at least ~~\$53.07~~ \$54.13 per offender, per day for male offenders from both an "institutional" and "non-institutional" setting and ~~\$70.68~~ \$73.49 per offender per day for female offenders (3% increase). **\*NOTE: Should CONTRACTOR'S "institutional" offender population ever exceed 65% of their total capacity during FY 2008, CONTRACTOR will not be penalized for this, however, a higher per diem rate will only be paid for up to 65% and not above.**
- ~~10. Should CONTRACTOR have an expansion between October 1, 2005 and June 30, 2007, DEPARTMENT will pay CONTRACTOR a per diem rate of at least \$53.07 per offender, per day, for male offenders and \$70.68 per offender, per day for female offenders for additional offenders included in the expansion, for the first three (3) months following an expansion, with no requirement for a 90-95% bed occupancy rate, or maintenance of a male offender population consisting of no less than 50% or more than 65% from an "institutional" setting (3% increase). After completion of the initial three (3) month transition period following extension, if CONTRACTOR fails to maintain occupancy and population consistency rates, the per diem rate per offender, per day will be paid at the minimum FY 2006 rate of \$53.07 for male offenders and \$70.68 for female offenders (3% increase). \*NOTE: Should CONTRACTOR'S "institutional" offender population~~

~~ever exceed 65% of their total capacity during FY 2006 or FY 2007, CONTRACTOR will not be penalized for this, however, a higher per diem rate will only be paid for up to 65% and not above.~~

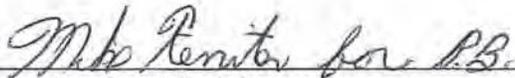
11. From ~~October 1, 2005~~ July 1, 2007 through June 30, ~~2006~~ 2008, should CONTRACTOR maintain a bed occupancy rate of 90% and a male offender population consisting of at least 50% and no more than 65% originating from an "institutional" setting, DEPARTMENT will pay CONTRACTOR a per diem rate of ~~\$55.13~~ **\$58.33** per offender, per day for male offenders referred from an "institutional setting" and ~~\$52.04~~ **\$53.08** per offender per day for males from a "non-institutional" setting and ~~\$70.68~~ **\$73.49** per female offender per day (~~4% increase overall~~).
12. From ~~October 1, 2005~~ July 1, 2007 through June 30, ~~2006~~ 2008, should CONTRACTOR maintain a bed occupancy rate of 95% and an offender population consisting of at least 50% and no more than 65% from an "institutional" setting, DEPARTMENT will pay CONTRACTOR a per diem rate of ~~\$57.19~~ **\$60.44** per offender, per day for male offenders from an "institutional" setting and ~~\$52.04~~ **\$53.08** per offender, per day, for male offenders from a "non-institutional" setting and ~~\$70.68~~ **\$73.49** per offender per day for female offenders (~~6% increase overall~~).
13. ~~Fiscal Year 2007 (July 1, 2006 through June 30, 2007), if CONTRACTOR maintains a male offender population consisting of at least 50% and no more than 65% originating from an "institutional" setting, DEPARTMENT will pay CONTRACTOR a per diem rate of \$54.01 per offender, per day, for male offenders from an "institutional setting" and \$54.01 per offender from an "non-institutional setting", \$72.05 per day for female offenders (5% increase overall). Should CONTRACTOR fail to maintain the above population consistency, no per diem increase will be paid, and the per diem will be paid at the FY 2006 rate of \$53.07 per offender, per day for males and \$70.68 per offender, per day for females. Beginning July 1, 2008 and ending June 30, 2009, if CONTRACTOR does not meet the minimum requirements of a 90-95% bed occupancy rate per month, or maintenance of a male offender population consisting of no less than 50% nor more than 65% from an "institutional" setting per month, DEPARTMENT will pay CONTRACTOR a per diem rate of at least \$55.21 per offender, per day for male offenders from both an "institutional" and "non-institutional" setting and \$74.96 per offender per day for female offenders. \*NOTE: Should CONTRACTOR'S "institutional" offender population ever exceed 65% of their total capacity during FY 2009, CONTRACTOR will not be penalized for this, however, a higher per diem rate will only be paid for up to 65% and not above.~~
14. Fiscal Year ~~2007~~ 2009 (July 1, ~~2006~~ 2008 through June 30, ~~2007~~ 2009), should CONTRACTOR maintain a bed occupancy rate of 90% and a male offender population consisting of at least 50% and no more than 65% originating from an "institutional" setting per month, DEPARTMENT will pay CONTRACTOR a per diem rate of ~~\$57.19~~ **\$59.50** per offender, per day for male offenders from an "institutional" setting and ~~\$52.04~~ **\$54.14** per offender, per day for male offenders from a "non-institutional" setting and ~~\$72.05~~ **\$74.96** per offender per day for female offenders (~~6% increase overall~~).
15. Fiscal Year ~~2007~~ 2009 (July 1, ~~2006~~ 2008 through June 30, ~~2007~~ 2009), should CONTRACTOR maintain a bed occupancy rate of 95% and a male offender population consisting of at least 50% and no more than 65% originating from an "institutional" setting

per month, DEPARTMENT will pay CONTRACTOR a per diem rate of ~~\$59.25~~ **\$61.64** per offender, per day for male offenders from an "institutional" setting and ~~\$52.04~~ **\$54.14** per offender, per day for male offenders from a "non-institutional" setting and ~~\$72.05~~ **\$74.96** per offender, per day for female offenders (~~8% increase overall~~).

16. To determine the bed occupancy percentage, ~~male and female beds, will be combined and~~ Transitional Living services, and Enhanced Supervision beds, will not be included in this figure or in the offender population consistency percentage. Only male beds will be considered. CONTRACTOR will determine appropriate per diem pay plan to bill each month, and note this on its monthly invoice. DEPARTMENT will conduct random audits of CONTRACTOR'S monthly billing invoice. DEPARTMENT shall make adequate referrals to CONTRACTOR to allow CONTRACTOR to maintain a male bed occupancy rate of 95%. The parties agree to arbitrate the issue of adequate referrals if it is raised by CONTRACTOR, pursuant to the arbitration provisions of this Agreement. DEPARTMENT shall pay CONTRACTOR at the rate CONTRACTOR alleges it would have been entitled to during the pendency of arbitration.
17. No Change
18. No Change
19. No Change
20. The conditions of reimbursement outlined above are effective for Fiscal Years ~~2006~~ 2008 and ~~2007~~ 2009. CONTRACTOR retains the right to renegotiate for Fiscal Year ~~2008~~ 2010 with the guarantee that compensation by DEPARTMENT will not be less than compensation paid in Fiscal Year ~~2007~~ 2009, subject to availability of funding. While the parties are renegotiating CONTRACTOR'S compensation, DEPARTMENT shall continue to compensate CONTRACTOR at the same rate as the previous fiscal year. After renegotiations have concluded, DEPARTMENT shall compensate CONTRACTOR at the new compensation rate retroactive to the beginning of the fiscal year.
21. No Change
22. No Change
23. DEPARTMENT shall pay CONTRACTOR a one-time payment of \$2.00 (two and 00/100 dollars) per offender, per day, for actual population during the time period of October 1, 2007 through December 31, 2007 (92 days) for lost time not being able to charge the increased rate.
24. DEPARTMENT shall pay CONTRACTOR \$11.00 (eleven and 00/100 dollars) per offender, per day, for offenders placed under GPS monitoring by CONTRACTOR.

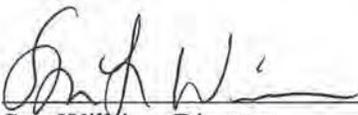
This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

**DEPARTMENT**

  
Pam Bunke, Administrator  
Adult Community Corrections Division

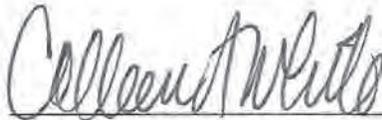
7-10-08  
Date

**CONTRACTOR**

  
Sue Wilkins, Director  
Missoula Correctional Services, Inc.

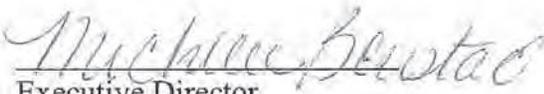
7-16-08  
Date

**Reviewed for Legal Content by:**

  
Legal Counsel  
Department of Corrections

7/10/08  
Date

**Approved for Montana Facility Finance Authority by:**

  
Executive Director

7-11-08  
Date

1. **PARTIES**

The Montana Department of Corrections (DEPARTMENT) and **Missoula Correctional Services, Inc. (CONTRACTOR)** enter into this Contract (**06-051-ACCD**). The parties 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

*Missoula Correctional Services, Inc.  
2350 Mullan Road*

*Missoula,, MT 59808  
(406) 541-9200*

**This contract replaces Contract #CCD-01-001-10-PRC in its entirety, effective upon receipt of all signatures.**

The parties agree that upon request of the Legislative Audit Committee, the Legislative Audit Division shall review the procedures by which a contract was awarded and shall review each contract prior to execution to determine if the contract includes requirements provided in section 53-1-203, MCA.

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 THE PARTIES**

CONTRACTOR agrees to have procedures and policies in place that are in accordance with DEPARTMENT policies in effect as of the date of this agreement which are applicable to CONTRACTOR'S program and have been provided to CONTRACTOR prior to execution of this Agreement. CONTRACTOR will provide residential and non-residential prerelease services to offenders under the control of DEPARTMENT to: 1) assist offenders in making the transition from incarceration to a free society; and 2) assist offenders with rehabilitation in a structured setting. Offenders possess no right to participate in a prerelease program and nothing in this Agreement creates a right or liberty interest for offenders to participate in the program.

CONTRACTOR is a non-profit corporation organized under the laws of Montana for the purpose of providing comprehensive community correctional services. CONTRACTOR and DEPARTMENT agree to the following conditions:

A. **SCREENING**

1. DEPARTMENT shall determine the initial eligibility of offenders it will refer to the Facility for screening.
2. CONTRACTOR shall establish a local screening committee that shall include at a minimum a local law enforcement officer, a probation and parole officer, and a member of the public. The committee will convene as a group, in person, or via conference call or web cam, met net, etc., so that all persons participating in the meeting can hear each other at the same time, to consider and accept or deny referrals within ten (10) working days of the referral's receipt. At each screening meeting, the committee must discuss each

offender referral and report to DEPARTMENT in writing, the committee's results. After due consideration and discussion, the committee must decide to admit or deny an offender through mutual agreement between a majority of committee members, except in cases where a unanimous vote is required by CONTRACTOR policy. The screening committee shall have the final determination regarding admission of any candidate to the center. Each committee member shall have one vote. In the case of a tie vote, the center administrator will cast a vote to break the tie.

3. If the committee decides to deny an offender admission to CONTRACTOR'S facility the committee must in writing, specify the reasons for the denial. The committee may deny an offender admission only for the following reasons:
  - a. The offender presents an unacceptable level of risk for future criminal activity in the community;
  - b. The offender presents an unacceptable level of risk of harm to other facility offenders, staff, or self;
  - c. The offender presents an unacceptable level of risk of escape;
  - d. The offender cannot fulfill the program obligations. The committee and facility may not discriminate against an offender on the basis of the offender's mental or medical condition, but may deny admission to an offender who due to one of these conditions, cannot fulfill program objectives with reasonable accommodation or "special needs" assistance from DEPARTMENT;
  - e. The offender has insufficient time remaining on his or her sentence to complete the program;
  - f. The offender has committed a sexual or violent offense in the local community where his or her victim resides;
  - g. The file material submitted was incomplete (note specifically what is missing).
  - h. Other penological reasons (must specifically note what these are).
4. CONTRACTOR will submit an electronic report (e-mail) to the Contract Programs Manager within the next business day after the screening committee meets. The report must outline all offenders that the committee screened and for each one indicate:
  - a. The referral source;
  - b. Whether the committee accepted or denied the offender;
  - c. If the committee denied the offender, the reason for the denial;
  - d. If screening was not completed within ten (10) working days, the report must indicate the reason the screening took longer than ten (10) working days to complete.

5. DEPARTMENT may not transfer an offender to the Facility until CONTRACTOR has provided notice of acceptance of the offender.
6. CONTRACTOR will arrange an annual meeting between DEPARTMENT staff and screening committee members, and a separate annual meeting between DEPARTMENT staff and CONTRACTOR'S Board of Directors, to discuss relative issues.
7. DEPARTMENT will release the following non-confidential information to the screening committee:
  - a. Information, Judgments, and Sentence Review Decisions;
  - b. Initial Board of Pardons and Parole Report and Disposition;
  - c. Probation and Parole Bureau Violation Reports;
  - d. Department of Corrections' Basic Information Sheet;
  - e. Department of Corrections' Initial Classification Summary and Report;
  - f. Department of Corrections' Summary of Offender's Institutional Conduct.
8. An offender who wants to be considered for prerelease placement must execute appropriate releases so DEPARTMENT can release appropriate confidential information such as Medical, psychological, and treatment information necessary to evaluate the offender's ability to complete the prerelease program; the Pre-sentence Investigation Report, and information necessary to evaluate the offender's needs for transitional services. DEPARTMENT will obtain all releases and information and provide it to CONTRACTOR.

**B. OFFENDER RECORDS AND REPORTS**

1. In accordance with DOC 1.5.6, Offender Records Access and Release and P&P 40-6 Case Records Management, CONTRACTOR shall protect offender records as confidential and not allow other offenders access to view or handle offender records. Offenders may make written requests to review file materials and may be granted access to review non-confidential portions of their file. All information to be provided to an offender from a file must be evaluated by a designated CONTRACTOR employee to ensure that release of information will not endanger either the offender or others, or violate the privacy rights of the offender or others. The offender and supervising staff member will sign and date the request. CONTRACTOR shall maintain offender records on-site in a locked, secure area. DEPARTMENT will provide written direction to CONTRACTOR regarding the appropriate release of offender information to outside parties. CONTRACTOR may require a subpoena to release information, if it deems necessary.
2. With the sole exception of information in the offender records that is necessary to accomplish continuity of care or treatment by a community agency or provider, CONTRACTOR may not copy or disseminate offender records, unless otherwise

authorized by law. In the case of information released for continuity of care or treatment, CONTRACTOR shall obtain consent from the offender in accordance with state and federal law governing confidential information.

3. CONTRACTOR shall retain offender records for a period of five years from the date of an offender's release from the Facility.
4. REPORTS - CONTRACTOR shall submit a written progress report within 15 days following an offender's four (4) months of residency in the program.
  - a. If an offender's stay at the Facility extends beyond a six (6) month period, CONTRACTOR must submit monthly progress reports to DEPARTMENT until the offender is released or terminated from the program.
  - b. CONTRACTOR will submit reports to the Contract Programs Manager.
  - c. DEPARTMENT reserves the right to request more frequent progress reports on problematic or special needs offenders. CONTRACTOR shall complete a final case summary (a.k.a. "termination report") on each offender and submit copies to the Contract Programs Manager within thirty (30) days of the offender's release or termination. A copy of this report will also be forwarded to the MSP Classification Bureau, and, in the case of offenders being released to supervision, the Probation & Parole Office that will supervise the offender. CONTRACTOR shall retain all original reports in the offenders' records.

**C. TRANSPORTATION**

DEPARTMENT will arrange and provide the initial transportation of each offender to the Facility and back to DEPARTMENT custody.

**D. PROGRAMMING & COUNSELING**

1. Within ten (10) working days of an offender's arrival, CONTRACTOR shall immediately commence an individualized program for each new offender, describing the offender's treatment, vocational, educational, behavioral and social expectations and goals. The offender's individualized program will include measurable criteria of expected behavior and accomplishments, a time schedule for achieving specific goals, and scheduled progress reviews. Offenders' individualized programs must be set forth in writing and signed by the offender and staff, subject to review and approval by DEPARTMENT. Offenders will be subject to program level progression criteria that is mutually agreed upon between CONTRACTOR and DEPARTMENT.
2. CONTRACTOR shall develop a written release program for each offender in conjunction with DEPARTMENT. CONTRACTOR will make all recommendations relative to an offender's release or continued stay at the facility, in writing, and will coordinate offender's release plans by submitting appropriate pre-parole planning paperwork, conditional release reports, and interstate compact requests, in accordance with P&P 120-1 Parole Placement and Investigation Procedures, P&P 150-6 Conditional Release of DOC Offenders, and P&P 130-1 Interstate Commission Transfers. CONTRACTOR will

ensure that Case Managers have appropriately investigated and verified offender's release plans verbally, or in writing, prior to submission to State Probation and Parole or Interstate Compact.

3. Depending on the needs of the offender, CONTRACTOR shall provide or make referral to individual and group counseling in substance abuse, employment, health, education, parenting, financial management, Mental Health, Vocational Rehabilitation, and Cognitive Principles & Restructuring (CP&R). CONTRACTOR'S utilizing CP&R will follow DEPARTMENT CP&R Facilitator's Manual guidelines for completion of Phase I, II and III. Offenders will be permitted to enter Phase I, II, or III groups within thirty (30) calendar days of their arrival to the facility, unless other treatment program scheduling precludes this. Offenders will be permitted to discontinue CP&R upon completion of Phase II or Relapse Phase III requirements. All CP&R groups will be scheduled to allow offender completion within a six (6) month time period. CONTRACTOR will submit a biannual report to DEPARTMENT, which outlines current programming available to offenders within the Facility, and programming available through referral to community resources. CONTRACTOR will post, maintain, and periodically update a directory of community agencies available to assist offenders, or will use a directory that is maintained and updated by another agency.
4. CONTRACTOR shall, at a minimum, provide offenders with the following:
  - a. emergency and crisis intervention services;
  - b. an assigned staff member to meet with and advise that offender on a weekly basis;
  - c. Case Management between a Case Manager and one or more offenders; and
  - d. individual or group sessions directed toward a need or problem, such as health, education, family and interpersonal relationships, financial management, substance abuse, or sexual victimization;
  - e. guidance, instruction, and information relating to obtaining and maintaining gainful employment commensurate with the offender's needs and abilities, including identification of job openings, arrangements for interviews, and transportation options, as necessary.
5. CONTRACTOR shall ensure that Case Managers document all scheduled meetings with offenders in writing, subject to review by DEPARTMENT. Documentation should note the offender's progress in attaining goals relative to their individualized program, identified needs, and any other pertinent issues.

**E. OFFENDER MISCONDUCT & REMOVAL FROM FACILITY**

1. CONTRACTOR shall provide to each offender at orientation a written agreement setting forth all rules, conditions, and procedures governing the offender's residency at the facility.
2. Disciplinary Procedures

- a. Pursuant to DOC 3.4.1, Adult Institutional Discipline and P&P 140-1, Adult Offender Discipline and Disciplinary Hearings (attached and incorporated herein by reference), if offender is alleged to have violated his furlough or residency agreement or the rules of the facility, CONTRACTOR shall serve the offender with written notice of the allegation and immediately forward a copy to the Probation & Parole Officer II or designee assigned to conduct hearings for the Facility (“hearing officer”).
- b. In accordance with DOC 3.4.1, Adult Institutional Discipline, and P&P 140-1, Adult Offender Discipline and Disciplinary Hearings, CONTRACTOR may internally handle Class II violations, subject to consultation with a hearing officer prior to finalizing a disciplinary decision. CONTRACTOR agrees to forward all Class I violations to the hearing officer. All violation codes used by CONTRACTOR will be consistent with established DEPARTMENT guidelines.
- c. Within five (5) working days if the offender is incarcerated and ten (10) working days if he is not, the hearing officer shall conduct a hearing to determine whether the allegation is true, and if so, whether to impose a penalty, including whether the offender should remain in the Facility. The hearing officer shall then provide a written disposition to the offender, including, if applicable, the reasons for removal of the offender from the program. CONTRACTOR will submit a monthly report to DEPARTMENT, outlining all offenders that have received class I and II violations resulting in a hearing that month, including the disposition of each hearing.
- d. If the hearing results in a decision to terminate the offender’s participation in the program, CONTRACTOR shall complete a termination report and forward it to the Contract Programs Manager and the MSP Classification Bureau.
- e. An offender or CONTRACTOR may appeal the decision of the hearing officer to the Community Corrections Division Administrator (also referred to as the appeal hearing officer), or designee. The appeal hearing officer will review the decision to determine if the appropriate procedure was followed in the disciplinary matter and if appropriate findings of fact were made. The appeal hearing officer will also review the determination on disposition of the offender. The standard of review will be whether the facility clearly did not follow appropriate procedure in the disciplinary matter or that the findings of fact were clearly erroneous. If the appeal hearing officer determines the findings of fact were clearly erroneous or the facility clearly did not follow appropriate procedure in the disciplinary matter, the appeal hearing officer may reinstate the offender and CONTRACTOR agrees to reinstate the offender at the Facility at the next available opening. If the appeal hearing officer determines the disposition is not proportionate to the offense, or if through the appeal process it is determined that the offender should be reinstated contrary to the recommendation of CONTRACTOR, CONTRACTOR may appeal the decision of the appeal hearing officer by submitting a letter articulating the reasons for the appeal and stating why a placement back to CONTRACTOR’S facility is not appropriate. This letter must be submitted within seven (7) working days following the hearing. The appeal hearing officer has thirty (30) calendar

days to make a ruling on this appeal. If the appeal hearing officer still believes the offender should be reinstated contrary to the recommendation of CONTRACTOR, CONTRACTOR must re-screen the offender through the local facility screening committee according to the terms of this agreement. During the screening process, the offender will remain in the custody of the local detention facility until a determination is made by the committee. If deemed appropriate, subject to screening and approval procedures, the Administrator may also recommend placement of an offender in an alternative placement.

### 3. Detention

- a. In the case of controlling an offender's threatening or harmful behavior, the Probation & Parole Officer II, or other designee of DEPARTMENT, may authorize an offender's placement for a specified duration in the county detention center. If CONTRACTOR is unable to contact the PO II or designee, CONTRACTOR may place the offender in the county detention center pursuant to a pre-signed warrant. CONTRACTOR shall inform the PO II or designee of the detention placement by 8:00 a.m. the next business day.
  - b. In such cases, the cost of the offender's detention will be borne by the offender. CONTRACTOR will establish procedures to inform offenders of this potential cost. When an offender does not reimburse CONTRACTOR for detention costs, DEPARTMENT will reimburse CONTRACTOR for said detention costs.
  - c. Per Diem - During an offender's detention placement, DEPARTMENT will continue payment to CONTRACTOR at the contracted per diem rate to allow CONTRACTOR to "hold" the bed until the offender's return. However, upon determination by DEPARTMENT Hearing Officer that the offender will be returned to prison from the County detention center, CONTRACTOR will discontinue receiving per diem payments for the offender and may immediately fill the bed with another offender.
4. Removal from Facility - Upon request by DEPARTMENT, CONTRACTOR will surrender custody of the offender to a designated officer of DEPARTMENT or law enforcement official. In the event that CONTRACTOR determines that the continued participation of an offender in the program presents an undue threat to community safety or will hinder the orderly operation of the program, CONTRACTOR may request an administrative transfer of that offender out of the facility. Upon request by CONTRACTOR, when such request is proportionate to the circumstances, DEPARTMENT will take custody of an offender through a designated officer of DEPARTMENT or law enforcement official. Under no circumstances will CONTRACTOR transfer any offender from the Facility until DEPARTMENT has authorized the transfer and made arrangements to take the offender into custody.

## F. FACILITY MANAGEMENT

1. CONTRACTOR shall provide offenders with an environment that complies with local, state, and federal health and safety laws and regulations and treatment goals. CONTRACTOR shall maintain records of inspections by local, state and federal

authorities and conduct annual and quarterly inspections as recommended by the authority having jurisdiction or if applicable, as specified by the equipment manufacturer. CONTRACTOR will forward reports of violation to DEPARTMENT within five (5) working days of their receipt, along with subsequent plans of correction and final agency disposition with regard to the report of violation. DEPARTMENT reserves the right to request documentation of the Facility's inspection reports on an annual basis or more frequently as needed.

2. CONTRACTOR shall provide furnishings, fixtures, and equipment to accommodate all offenders.
3. CONTRACTOR shall require offenders to maintain their living quarters as defined in writing and provided to offenders at orientation. CONTRACTOR shall document that these responsibilities do not constitute full-time, reimbursable work, but are an integral part of the therapeutic treatment.
4. CONTRACTOR shall regulate the use and location of noise-producing equipment and appliances, such as televisions, radios, or other audio or video players to avoid interference with therapeutic activities of the program or offender privacy.
5. Subject to reasonable restrictions set forth in written policies and procedures of the facility, CONTRACTOR must provide offenders with:
  - a. semi-private toilet and bathing facilities;
  - b. well-ventilated, un-crowded living space. The number of offenders should not exceed the facility's rated-bed capacity;
  - c. adequate space to store clothing and personal property, including lockable space; and
  - d. furnished areas that provide for conversations with family, friends or therapists or where the offender may be alone; and a full range of social activities for all offenders, from two-person conversations to group activities.

#### **G. OFFENDER TRAVEL**

1. CONTRACTOR shall establish permanent "sign out" and "sign in" logs to detail: offender destination; the reason for the trip; where the offender may be reached; the expected time of return; and, the actual time of return.
2. Non-employment related requests for offenders to travel in excess of 65 miles from the facility or outside of the county in which the Facility is located, require approval by the Contract Programs Manager or designee. Except for program level or phase appropriate passes, an offender may not be absent from the Facility without written authorization of the Contract Programs Manager, the Probation and Parole Officer II, and the Facility Director. CONTRACTOR agrees to comply with DOC Policy 5.8.2, Prerelease Center Offender Travel, attached hereto and incorporated by reference herein, in submitting requests for travel to DEPARTMENT.

## **H. OFFENDER ABSENCE/ESCAPE**

1. When an offender is unaccounted for and determined to be Absent Without Leave (AWOL), CONTRACTOR shall follow DOC Policy 3.2.2 - Facility Escapes and DOC Policy 1.1.6 – Incident Reporting and Duty Officer System, attached hereto and incorporated by reference herein.
2. Within one (1) hour of determining a male or female offender's escape, CONTRACTOR'S on-duty staff member shall contact the Montana State Prison shift commander by telephone and fax a written Escapee Wanted Form (if electronic photo available), Escape Information Report (Attachment 2 and Attachment A of DOC 3.2.2, respectively), and an Incident Report Form (standard form attached to DOC 1.1.6 noted above) to the Helena Central Office (Contracts Program Manager) and Montana State Prison Investigation Unit, with the following information:
  - a. Name and Adult Offender (AO) number;
  - b. How, when, and where the escape was discovered;
  - c. Circumstance surrounding the escape (i.e., did not show up for work or school, etc.);
  - d. Probable companions;
  - e. Suspected destination and mode of transportation;
  - f. Personal and clothing description; and
  - g. Agencies and persons who have been notified.
3. If there are extenuating circumstances, the reporting staff person must so indicate to DEPARTMENT representative. If the circumstance indicates that there is a possibility of the offender returning on his own, DEPARTMENT may use its discretionary power and choose not to issue the escape warrant at that time.
4. Montana State Prison (male) is responsible for listing the escapee with the National Crime Information Center (NCIC), issuing the felony warrant and complaint, and the All Points Bulletin (APB). The Interstate Compact Unit is responsible for listing female escapees with the National Crime Information Center, by issuing an administrative felony warrant.
5. CONTRACTOR will cooperate fully with instructions from DEPARTMENT and assist in returning the offender to appropriate custody.
6. CONTRACTOR will submit an annual report containing escape information to 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

CONTRACTOR for use in reporting applicable escape information.

**I. UNLAWFUL OFFENDER BEHAVIOR**

CONTRACTOR shall report allegations of criminal conduct of offenders to local law enforcement officials and DEPARTMENT. CONTRACTOR shall cooperate with any administrative or criminal investigation regarding an offender. In accordance with P&P 40-2, Offender Informants, under no circumstances may an offender be permitted to act as an operative (i.e. actively engaging in "controlled enforcement" activities that would ordinarily be considered a violation of the law) for law enforcement officials. Allowing offenders to act as informants (i.e. providing confidential information to qualified law enforcement officials) is discouraged by DEPARTMENT and can only occur on a limited and restricted basis with prior written approval from the Community Corrections Division Administrator.

**J. OPERATION OF MOTOR VEHICLES**

Generally, offenders are not permitted to operate motor vehicles. An offender, who may have a specific need to operate a motor vehicle on a public roadway, as a function of his or her job, shall do so only with the written permission of DEPARTMENT. The Contract Programs Manager and P&P Officer II shall monitor these procedures and approve, in writing, any exceptions. Per P&P 60-6-DUI Offender Driving Privileges, attached and incorporated herein by reference, felony DUI offenders will not be allowed to operate a motor vehicle under any circumstances while a resident of the Facility, or while participating in Transitional Living.

**K. URINALYSIS SCREENING**

1. CONTRACTOR shall conduct regular, random urinalysis (UA) screening of all offenders and submit quarterly reports to the Contract Programs Manager outlining the total number of UA samples taken and tested, how many of these samples were positive and what substances they were positive for. DEPARTMENT will develop a program spreadsheet for CONTRACTOR to use in reporting urinalysis information. CONTRACTOR will submit a copy of their current Urinalysis Screening Policy to DEPARTMENT annually by July 30th of every year, or upon revision, for DEPARTMENT review and mutual approval.
2. If CONTRACTOR agrees to make available to the Department of Corrections, Probation & Parole Bureau, the necessary resources to conduct UA screening, DEPARTMENT agrees to reimburse CONTRACTOR a maximum of \$6.00 per UA screening.

**L. INMATE WORKER POSITIONS**

1. CONTRACTOR may request placement of an offender as an inmate worker by submitting to the Contract Programs Manager a work position agreement, signed by the offender, that sets forth a description of the work assignment, compensation, length of assignment in the position, and counseling services to be provided. DEPARTMENT authorizes CONTRACTOR to have no more than 7 % of total contracted beds to be filled with inmate workers, unless prior DEPARTMENT approval to exceed this amount has been received.

2. Inmate workers may remain in the position for a maximum of six months, unless approved by the Contract Programs Manager.
3. CONTRACTOR shall provide inmate workers room and board exempt from the service charges that apply to traditional program participants. During the offender's placement in an inmate work position, CONTRACTOR may charge DEPARTMENT the daily per diem rate assessed regular program participants. Out of this per diem, CONTRACTOR shall pay inmate workers a minimum of \$6.00 and a maximum of \$12.00 per day for their work.
4. Inmate workers shall follow all Facility rules, regulations, and provisions of their inmate work position agreement, and be subject to the same disciplinary procedures as traditional program participants.
5. DEPARTMENT will cover the cost of an inmate worker's necessary medical, dental and psychiatric expenses, if CONTRACTOR has submitted a request to DEPARTMENT'S Managed Care Coordinator for prior review and approval is deemed appropriate. In an emergency, CONTRACTOR may proceed with the necessary treatment without prior authorization, but shall contact the Managed Care Coordinator ("MCC" herein) as soon as possible to furnish full information regarding the nature of the illness, the type of treatment to be provided, and the estimated costs thereof. The MCC will review each case individually.

**M. HEALTH SERVICES**

Offenders shall receive such medical, psychiatric, and dental treatment as may be necessary to safeguard their health and prevent pain and suffering. The cost of all such medical, psychiatric and dental treatment is the primary responsibility of offenders. CONTRACTOR is not responsible for the cost of such treatment. DEPARTMENT will assist in the cost of a Facility or locally contracted Registered Nurse, who is available to aid in offender's health care at a minimum of fifteen (15) hours per week, at no cost to offenders. If available and appropriate, offenders will be referred to this Registered Nurse before being referred to an outside agency for care. CONTRACTOR shall report all major recommended medical, psychiatric, and dental care and medical and dental emergencies directly to DEPARTMENT'S Managed Care Coordinator ("MCC" herein) or designee for review. In an emergency, CONTRACTOR may proceed with the necessary treatment without prior authorization, but shall contact the MCC as soon as possible to furnish full information regarding the nature of the illness, the type of treatment to be provided, and the estimated costs thereof. The MCC will review each case individually.

CONTRACTOR shall have in writing and subject to review by DEPARTMENT, an emergency mental health care plan for offenders, which outlines the use of designated hospital emergency room or appropriate health facility; emergency on-call mental health professional or agency, and security procedures for the immediate transfer of offenders, when appropriate.

**N. OFFENDER DEATH**

All expenses relative to an offender's, death, including preparation, shipment of the body, and burial, shall be the responsibility of DEPARTMENT. If possible, DEPARTMENT shall be notified in advance of such expenses and CONTRACTOR will follow DEPARTMENT

instructions.

**O. FOOD SERVICES**

1. CONTRACTOR shall provide offenders with the minimum daily adult level of caloric intake and nutritional levels as recommended by the U.S. Department of Agriculture. A nutritionist, dietician, or physician will annually approve the nutritional value of the food served. Food services will be guided by the following:
  - a. A written plan for the delivery of dietetic services and naming the person in charge of the food operation and the duties that may be delegated to others.
  - b. Food shall be served at planned meal times.
  - c. Food services shall comply with all applicable federal, state, and local law regulations.
  - d. Provisions shall be made to accommodate residents who work irregular hours and are not available at regularly scheduled meal times.

**P. STAFFING**

CONTRACTOR shall maintain sufficient staff to deliver the services required by this Agreement, including a minimum of two (2) staff persons on the premises at all times to supervise activities. When both males and females are housed in the Facility, at least one male and one female staff member are on duty at all times.

**Q. LENGTH OF STAY**

Offenders shall not reside in FACILITY for more than 180 days without prior written approval from the Contract Programs Manager.

**R. GRIEVANCES**

CONTRACTOR shall maintain a system through which offenders may present grievances concerning the operation of the program. This procedure does not apply to applicants who have not been accepted and have not signed a residency agreement.

**S. OFFENDER FEES**

1. CONTRACTOR shall inform offenders in writing at the time of orientation of all applicable fees CONTRACTOR may charge the offender under this agreement and Administrative Rules 20.7.201, 20.7.202, and 20.7.204. CONTRACTOR shall submit for DEPARTMENT approval, a schedule covering all applicable charges and fees. CONTRACTOR agrees to provide offenders and DEPARTMENT 90 days' advance notice of adjustments to the fee schedule.
2. CONTRACTOR may charge an offender for room, board, and services. Upon request, CONTRACTOR shall, in addition to the required monthly invoice, submit reports to

DEPARTMENT within ten (10) working days of the following month, showing the offender's monthly gross income, the number of days in the facility, and the offender's expenses. "Expenses" include room, board, and service charges, medical and dental expenses, and restitution as set forth in this agreement.

3. CONTRACTOR may charge up to \$12.00/day for room and board each day of the offender's residence. Effective September 1, 2005, CONTRACTOR agrees not to charge any additional percentage of an offender's net earnings for room and board. After an offender's absence from the facility for seven (7) consecutive working days, the facility shall suspend the charge until the offender returns, unless an exception is approved through the Contract Programs Manager. CONTRACTOR may charge up to \$4.00/day for an offender engaged in CONTRACTOR'S transitional living program.
4. CONTRACTOR may require an offender to pay for damage to the facility, its equipment, furnishings, and fixtures.
5. CONTRACTOR has the discretion to forgive all charges, or any portion thereof, based on CONTRACTOR'S assessment of the offender's ability to pay. DEPARTMENT may, on a case-by-case basis with written approval, pay CONTRACTOR for room and board fees of special needs offenders.

**T. COLLECTION OF COURT ORDERED FINES AND FEES**

1. Pursuant to ARM 20.7.201, CONTRACTOR shall develop and submit for DEPARTMENT approval, procedures to document the collection of court-ordered restitution, court-ordered fines, and court-ordered child and spousal support. CONTRACTOR shall submit reimbursement collection data to DEPARTMENT by July 30th of each year.
2. Pursuant to 46-18-241, M.C.A., CONTRACTOR shall withhold and submit all Felony District Court ordered restitution to the Department of Corrections Collection Unit on a monthly basis.

**U. BANK ACCOUNTS**

CONTRACTOR shall provide offenders with interest or non-interest bearing bank accounts. If the bank account is interest bearing, the interest shall be credited to the offender.

**V. STATISTICAL REPORTS**

Upon reasonable request of DEPARTMENT, CONTRACTOR agrees to prepare statistical reports/reviews of the program. CONTRACTOR agrees not to release said information without approval of DEPARTMENT.

**W. DNA TESTING**

CONTRACTOR will comply with DOC Policy 1.5.13, DNA Testing/Collection of Biological Samples, attached and incorporated herein by reference, by following the procedures outlined within the policy or utilizing a community resource to obtain DNA samples from designated

offenders. Upon an applicable offender's release or return to custody, CONTRACTOR will forward written documentation that sampling was conducted to the supervising Probation and Parole Office or appropriate facility.

**X. TRANSITIONAL LIVING PROGRAM (TLP)**

In accordance with DOC 5.8.3, Transitional Living Program for Adult Offenders, attached and incorporated herein by reference, CONTRACTOR agrees to provide (TLP) services to offenders as approved by DEPARTMENT. CONTRACTOR agrees to allow offenders who have not completed all treatment mandates to participate in TLP, as long as they are projected to have these finished before parole or conditional release. At a minimum, TLP will include a review to determine the offender's appropriateness for the program, a structured orientation to the program through a group or individual process, weekly documented one-on-one meetings with the offender's assigned TLP Case Manager, daily offender check-ins with Facility staff, one on-site collateral check and offender house check weekly, random urinalysis and breathalyzer testing, development of a weekly offender itinerary with periodic verification by Facility staff, maintenance of treatment programming, and referral to appropriate community resources if necessary. Electronic monitoring is optional. CONTRACTOR will ensure that TLP staff maintains written documentation of all scheduled groups, meetings and communications relative to supervised offenders, subject to DEPARTMENT review.

**Y. ENHANCED SUPERVISION PROGRAM (ESP)**

In accordance with P & P Policy 140-3, Sanction Programs, CONTRACTOR agrees to provide (ESP) services to offenders as referred and approved by DEPARTMENT Probation and Parole Bureau. At a minimum, ESP services will include daily offender check-ins with Facility staff, daily breathalyzer testing, and one random urinalysis per week after 5:00 p.m. and/or on weekends. In addition, offender services options may include: development of a weekly itinerary with periodic verification by Facility personnel; additional random urinalysis; participation in Cognitive Principles and Restructuring (CP&R) groups; job development services; and where available, participation in or referral to Chemical Dependency Assessment, Treatment, or Aftercare; and 24-hour Secure, Continuous, Remote Alcohol Monitoring (SCRAM). CONTRACTOR will ensure that ESP staff maintains written documentation of all scheduled meetings and communications relative to supervised offenders, subject to DEPARTMENT review. CONTRACTOR will submit monthly reports to Contracts Program Manager for one (1) year following inception of its ESP Program. This report should include a current list of offenders on the ESP caseload, number of referrals that month, type of referral, (probation, parole, conditional release violator) referral source, number of days ordered, and completion information.

**Z. EMERGENCY & DISASTER PLAN**

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

procedures.

### 3. COMPENSATION/BILLING

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

1. **DEPARTMENT shall pay CONTRACTOR a one-time payment of thirty-one thousand and 00/100 dollars (\$31,000) per fiscal year**, for no less than fifteen (15) hours per week of service from a registered nurse. The amount of payment for this service will be pro-rated, should nursing service not be available for an entire fiscal year. Should CONTRACTOR provide sick call, CONTRACTOR must comply with all applicable laws and regulations regarding the practices of nursing and medicine.
2. **DEPARTMENT shall pay CONTRACTOR a share of fifty thousand and 00/100 dollars (\$50,000) per fiscal year** to be distributed on a first come, first serve basis between Alternatives, Inc., Great Falls Prerelease Services, Inc., Missoula Correctional Services, Inc., Community, Counseling & Correctional Services, Inc., and Boyd Andrew Community Services to pay for expenses related to necessary services provided to offenders qualifying as "special needs" offenders. This amount will not be counted toward the maximum amount paid under this contract, as identified in Section 3(6).
3. **DEPARTMENT shall pay CONTRACTOR a share of fifty thousand and 00/100 dollars (\$50,000) per fiscal year** to be allocated by contract capacity between Alternatives, Inc., Great Falls Prerelease Services, Inc., Missoula Correctional Services, Inc., Community, Counseling & Correctional Services, Inc., and Boyd Andrew Community Services to pay for expenses related to stipend requests, and allocated by Facility contract capacity. **Missoula Correctional Services, Inc. allocation amount for FY 2006 will be \$8,272.00 and \$7,254.00 for FY 2007.**
4. DEPARTMENT agrees to purchase **transitional living services (TLP)** as set forth in Section 2(X) of this Agreement for a maximum of twelve (12) offenders at the rate of **\$17.42 per offender, per day.**
5. DEPARTMENT agrees to purchase **enhanced supervision program (ESP) services** as set forth in Section 2(Y) of this Agreement for a maximum of twelve (12) offenders at a rate of **\$15.00 per offender, per day**, with a guarantee of payment for six (6) ESP offenders, regardless of the actual number of offenders in the program.
6. Invoice amounts will be for up to ninety (90) male offenders and twenty (20) female offenders for FY 2006 and FY 2007. Capacity levels between male and female offenders may be adjusted within the combined capacity total to account for occasional population fluctuations. **The maximum amount paid under this Contract for FY 2006 is \$2,501,766.80 and \$2,611,528.24 for FY 2007.** Should CONTRACTOR bill DEPARTMENT in excess of these amounts, DEPARTMENT will not reimburse CONTRACTOR. When CONTRACTOR fills additional male beds, to compensate for deficits in the female ADP, CONTRACTOR agrees to accept the per diem rate reimbursed for male offenders.
7. Within fifteen (15) working days following the last day of each calendar month, CONTRACTOR shall invoice DEPARTMENT for contractual services rendered during the

preceding month using electronic invoices provided by DEPARTMENT. Electronic invoices will automatically populate as to whether offender's referral source was from an "institutional" or "non-institutional" setting. For reporting purposes, an "institutional" setting will be defined as Montana State Prison, Montana Women's Prison, a regional or private prison, or the Sanction Treatment, Assessment, Revocation, and Transition Program (START). A "non-institutional" setting will be defined as the Missoula Assessment and Sanctioning Center (MASC), Billings Assessment and Sanctioning Center (BASC), the Connections Corrections Program (CCP), Warm Springs Addiction Treatment and Change Program (WATCH), Treasure State Correctional Training Center (TSCTC), parole or conditional release revocations coming directly from the community, and DOC commitments being placed directly from the community, with the exception of those offenders who were in prison immediately prior to placement at TSCTC or CCP. Invoices are subject to audit and adjustment by DEPARTMENT before and after payment is made. Unless such invoice is subjected to a special review or audit, CONTRACTOR is entitled to payment, or written explanation of exception, within 15 days of DEPARTMENT receiving a correct invoice.

8. During the transition period from July 1, 2005 to October 1, 2005, DEPARTMENT will pay CONTRACTOR a per diem rate of at least \$53.58 per offender, per day for male offenders and \$71.36 per offender, per day for female offenders, with no requirement for a 90-95% bed occupancy rate, or maintenance of a male offender population consisting of no less than 50% or more than 65% from an "institutional" setting (4% increase).
9. Beginning October 1, 2005, and ending June 30, 2006, if CONTRACTOR does not meet the minimum requirements of a 90-95% bed occupancy rate per month, or maintenance of a male offender population consisting of no less than 50% nor more than 65% from an "institutional" setting per month, DEPARTMENT will pay CONTRACTOR a per diem rate of at least \$53.07 per offender, per day for male offenders from both an "institutional" and "non-institutional" setting and \$70.68 per offender per day for female offenders (3% increase).
10. Should CONTRACTOR have an expansion between October 1, 2005 and June 30, 2007, DEPARTMENT will pay CONTRACTOR a per diem rate of at least \$53.07 per offender, per day, for male offenders and \$70.68 per offender, per day for female offenders for additional offenders included in the expansion, for the first three (3) months following an expansion, with no requirement for a 90-95% bed occupancy rate, or maintenance of a male offender population consisting of no less than 50% or more than 65% from an "institutional" setting (3% increase). After completion of the initial three (3) month transition period following extension, if CONTRACTOR fails to maintain occupancy and population consistency rates, the per diem rate per offender, per day will be paid at the minimum FY 2006 rate of \$53.07 for male offenders and \$70.68 for female offenders (3% increase). **\*NOTE: Should CONTRACTOR'S "institutional" offender population ever exceed 65% of their total capacity during FY 2006 or FY 2007, CONTRACTOR will not be penalized for this, however, a higher per diem rate will only be paid for up to 65% and not above.**
11. From October 1, 2005 through June 30, 2006, should CONTRACTOR maintain a bed occupancy rate of 90% and a male offender population consisting of at least 50% and no more than 65% originating from an "institutional" setting, DEPARTMENT will pay CONTRACTOR a per diem rate of \$55.13 per offender, per day for male offenders referred from an "institutional setting" and \$52.04 per offender per day for males from a "non-institutional" setting and \$70.68 per female offender per day (4% increase overall).

12. From October 1, 2005 through June 30, 2006, should CONTRACTOR maintain a bed occupancy rate of 95% and an offender population consisting of at least 50% and no more than 65% from an "institutional" setting, DEPARTMENT will pay CONTRACTOR a per diem rate of \$57.19 per offender, per day for male offenders from an "institutional" setting and \$52.04 per offender, per day, for male offenders from a "non-institutional" setting and \$70.68 per offender per day for female offenders (6% increase overall).
13. Fiscal Year 2007 (July 1, 2006 through June 30, 2007), if CONTRACTOR maintains a male offender population consisting of at least 50% and no more than 65% originating from an "institutional" setting, DEPARTMENT will pay CONTRACTOR a per diem rate of \$54.01 per offender, per day, for male offenders from an "institutional setting" and \$54.01 per offender from an "non-institutional setting", \$72.05 per day for female offenders (5% increase overall). Should CONTRACTOR fail to maintain the above population consistency, no per diem increase will be paid, and the per diem will be paid at the FY 2006 rate of \$53.07 per offender, per day for males and \$70.68 per offender, per day for females.
14. Fiscal Year 2007 (July 1, 2006 through June 30, 2007), should CONTRACTOR maintain a bed occupancy rate of 90% and a male offender population consisting of at least 50% and no more than 65% originating from an "institutional" setting per month, DEPARTMENT will pay CONTRACTOR a per diem rate of \$57.19 per offender, per day for male offenders from an "institutional" setting and \$52.04 per offender, per day for male offenders from a "non-institutional" setting and 72.05 per offender per day for female offenders (6% increase overall).
15. Fiscal Year 2007 (July 1, 2006 through June 30, 2007), should CONTRACTOR maintain a bed occupancy rate of 95% and a male offender population consisting of at least 50% and no more than 65% originating from an "institutional" setting per month, DEPARTMENT will pay CONTRACTOR a per diem rate of \$59.25 per offender, per day for male offenders from an "institutional" setting and \$52.04 per offender, per day for male offenders from a "non-institutional" setting and \$72.05 per offender, per day for female offenders (8% increase overall).
16. To determine the bed occupancy percentage, male and female beds will be combined and Transitional Living services, and Enhanced Supervision beds, will not be included in this figure or in the offender population consistency percentage. CONTRACTOR will determine appropriate per diem pay plan to bill each month, and note this on its monthly invoice. DEPARTMENT will conduct random audits of CONTRACTOR'S monthly billing invoice. DEPARTMENT shall make adequate referrals to CONTRACTOR to allow CONTRACTOR to maintain a male bed occupancy rate of 95%. The parties agree to arbitrate the issue of adequate referrals if it is raised by CONTRACTOR, pursuant to the arbitration provisions of this Agreement. DEPARTMENT shall pay CONTRACTOR at the rate CONTRACTOR alleges it would have been entitled to during the pendency of arbitration.
17. DEPARTMENT shall not reimburse CONTRACTOR for any offender whose length of stay extends beyond 180 days unless specifically authorized and approved in writing by the Contract Programs Manager prior to the expiration of the 180-day period. For good cause shown, as determined in the sole discretion of the Contract Programs Manager, exercised in good faith, DEPARTMENT may reimburse CONTRACTOR beyond the 180-day period. DEPARTMENT will assume custody of the offender at the end of the 180-day period if DEPARTMENT and CONTRACTOR have not come to an alternative agreement.

18. DEPARTMENT may withhold payments to CONTRACTOR for failure to perform in accordance with the terms of this Agreement. However, prior to withholding payment, DEPARTMENT shall notify CONTRACTOR and the MFFA (hereinafter defined), in writing, of its failure to perform. The notice shall specify acts or omissions constituting the default. If CONTRACTOR fails to remedy the default or submit an action plan deemed acceptable by DEPARTMENT within 60 days of receiving notice, DEPARTMENT may withhold payments.
19. CONTRACTOR shall reference the Contract number on all invoices and correspondence pertaining to this Agreement.
20. The conditions of reimbursement outlined above are effective for Fiscal Years 2006 and 2007. CONTRACTOR retains the right to renegotiate for Fiscal Year 2008 with the guarantee that compensation by DEPARTMENT will not be less than compensation paid in Fiscal Year 2007, subject to availability of funding. While the parties are renegotiating CONTRACTOR'S compensation, DEPARTMENT shall continue to compensate CONTRACTOR at the same rate as the previous fiscal year. After renegotiations have concluded, DEPARTMENT shall compensate CONTRACTOR at the new compensation rate retroactive to the beginning of the fiscal year.
21. In order to provide financing of CONTRACTOR'S prerelease center facility and improvements to such facility in October, 1998 CONTRACTOR requested the issuance of \$5,580,000 in tax-exempt bonds (the "Bonds") by the Montana Health Facility Authority (currently known as the Montana Facility Finance Authority and referred to herein as "MFFA") and a loan of the proceeds of the Bonds to CONTRACTOR pursuant to Montana Code Annotated Sections 90-7-226 through 228. As security for the Bonds, the MFFA required a written contract for services between CONTRACTOR and DEPARTMENT, which was executed August 8, 1998 and approved by MFFA pursuant to Section 90-7-226(1) MCA (the "August 1998 Contract"). The August 1998 Contract required DEPARTMENT to commit to the following provisions during the term of the Bonds (and DEPARTMENT hereby ratifies these commitments in this contract):
  - a. Payment by DEPARTMENT for additional reimbursement for the cost of the new facility and the maintenance of a 115% debt service coverage for the MFFA Bonds
  - b. A guaranty of payment by DEPARTMENT for 75% of the contracted bed space. The amount of payment is designed to cover CONTRACTOR'S fixed costs for a guaranteed 75% of contracted bed space.
  - c. As part of the compensation and deducted monthly from DEPARTMENT'S regular payments to CONTRACTOR, on August 15<sup>th</sup> of each year, DEPARTMENT shall pay, on behalf of CONTRACTOR, to U.S. Bank National Association, as Trustee (the "Trustee") of the Bonds under an Indenture of Trust dated as of September 1, 1998, (the "Indenture"), the following amounts:
    - i. the principal of and interest on the Bonds coming due in the following 12 months;
    - ii. the Program Expenses (as defined in the Indenture);
    - iii. any amounts necessary to make the Reserve Fund equal to the Reserve Requirement (as defined in the Indenture);
    - iv. any amounts due under a Capital Reserve Account Agreement between the MFFA

- v. and the Board of Investments (as defined in the Indenture); and any amounts necessary to be paid into the Rebate Fund (as defined in the Indenture); less any funds accumulated in the Bond Fund (as defined in the Indenture).

The parties hereto agree that the provisions of the Sections 3(1) through 3(20) above are not intended to replace or conflict with the commitments stated in this Section 3(21). CONTRACTOR agrees to use its best efforts to provide bed space to maintain the occupancy and population consistency rates for DEPARTMENT referrals as described in Sections 3(9) through 3(17) above.

22. If CONTRACTOR requests additional financing from MFFA for a prerelease center project through the issuance of additional bonds issued under the Indenture and secured with the Bonds, on a parity basis, by the provisions of this contract, then the commitments of DEPARTMENT referenced in Section 3(21) shall also apply to such additional bonds.

#### **4. TIME OF PERFORMANCE**

This agreement shall take effect on July 1, 2005 and shall terminate on June 30, 2025. On or about March 1, 2007 and every two years thereafter during the term of this Agreement, the parties will meet to review the number of beds to be provided and the compensation rates described in Section 3 of this Agreement, as well as all other rates for services listed in this contract and, upon presentation of reasonable documentation, agree to amend the Agreement as necessary.

#### **5. LIAISONS AND NOTICE**

1. Michelle Jenicek, Contract Programs Manager (444-4910), 1539 11<sup>th</sup> Avenue, P.O. Box 201301, Helena, MT 59620-1301 or successor serves as DEPARTMENT liaison.
2. Sue Wilkins, Director, Missoula Correctional Services, Inc. (541-9200) or successor serves as CONTRACTOR liaison.
3. Montana Facility Finance Authority, Executive Director, P.O. Box 200506, Helena, Montana 59620
4. All notices and invoices required in this Agreement 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.

#### **6. 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. 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.

7. **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.

8. **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 agreement, except that arising out of the sole negligence of DEPARTMENT, its appointed officials, agents, and employees.

DEPARTMENT agrees to defend and indemnify CONTRACTOR, 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 DEPARTMENT'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 DEPARTMENT its agents, employees, subcontractors representatives under this agreement, except that arising out of the sole negligence of CONTRACTOR, its appointed officials, agents, and employee.

9. **INSURANCE**

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

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

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

guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**Certificate of Insurance/Endorsements:** A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required 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.

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

**Additional Insured Status:** The State, its officers, officials, employees, and volunteers are to be covered as additional 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; premises owned, leased, occupied, or used.

3. **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 \$500,000 per occurrence and \$1,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of CONTRACTOR or its officers, agents, representatives, assigns or subcontractors.

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

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

## 10. ACCESS TO FACILITY AND BUSINESS RECORDS

1. Except in the case of suspected malfeasance, upon reasonable notification to CONTRACTOR, and subject to rights of privacy and confidentiality, CONTRACTOR agrees to provide DEPARTMENT or their agents and assigns with access to any records necessary to determine compliance with this agreement. Per 53-1-203, MCA, CONTRACTOR shall grant access to the Legislative Audit Division or a person contracting with the Legislative Audit Division for compliance auditing. CONTRACTOR shall provide access to all areas of the facility and to all records maintained onsite or offsite that pertain to all aspects of the facility, including but not

limited to operation, financial, and inmate records. CONTRACTOR agrees to create and retain all records supporting the services rendered and/or supplies delivered for a period of five years after either the records are created or the conclusion of any claim, litigation, or exception relating to this Agreement taken by the State of Montana or a third party. CONTRACTOR shall maintain offender records as provided in Part 2, Paragraph B, Sections 3 & 4 of this Agreement.

2. CONTRACTOR agrees to maintain program and financial records required by this Agreement. In case of financial review, DEPARTMENT will make every effort to provide CONTRACTOR with two weeks advance notice. CONTRACTOR agrees that an independent financial audit, at its expense, shall be conducted annually and at the termination of this Agreement. CONTRACTOR shall submit all audits no later than December 1<sup>st</sup> of each calendar year.
3. Except in the case of suspected malfeasance, upon reasonable notification to CONTRACTOR, CONTRACTOR agrees to allow DEPARTMENT personnel or other duly authorized persons access to the Facility at reasonable times to inspect the facility and offender records, to interview offenders and staff, and to observe procedures, including, but not limited to screenings, group meetings, intake, release, and security procedures, and all day to day operations of the Facility.
4. CONTRACTOR agrees to maintain program data as mutually agreed upon with DEPARTMENT at the beginning of the fiscal year. CONTRACTOR will produce program narrative and descriptive data in a form agreed upon between CONTRACTOR and DEPARTMENT. CONTRACTOR shall be given reasonable time to produce program narrative and descriptive data in a form agreed upon between CONTRACTOR and DEPARTMENT. All records pertaining to treatment of offenders will be available to DEPARTMENT or its authorized agents, but shall remain in the property of CONTRACTOR. CONTRACTOR may copyright material it deems appropriate.

#### **11. QUALITY ASSURANCE**

CONTRACTOR shall cooperate with and provide information to DEPARTMENT or DEPARTMENT'S authorized agents to assess program effectiveness and quality assurance.

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

CONTRACTOR recognizes that this Agreement is subject to public inspection 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 Agreement, in whole or in part, without the prior written approval of DEPARTMENT. No such written approval shall relieve CONTRACTOR of any obligation of this Agreement and any transferee or subcontractor shall be considered the agent of CONTRACTOR. CONTRACTOR shall remain liable as between the original parties to the Agreement as if no such assignment had occurred.

CONTRACTOR shall submit all subcontracts directly affecting offender security procedures or treatment needs to the Contract Programs Manager for review and approval at least 30 days prior to beginning performance of the contract. DEPARTMENT shall submit its approval or revision recommendations in writing to CONTRACTOR.

**14. AMENDMENTS**

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

**15. COMPLIANCE WITH LAWS**

CONTRACTOR must, in performance of work under the Agreement, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Prison Rape Elimination Act of 2003, 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 Agreement 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 Agreement.

CONTRACTOR will ensure that a criminal background investigation, including a CJIN and NCIC check, is conducted on each Facility employee or volunteer, prior to allowing access to offender records or personal authority over an offender. CONTRACTOR shall not employ a person with a felony record without DEPARTMENT approval.

**16. TERMINATION AND DEFAULT**

1. DEPARTMENT, at its sole discretion, may terminate or reduce the scope of this Agreement if available funding is reduced for any reason.
2. CONTRACTOR shall notify DEPARTMENT and the MFFA, whenever CONTRACTOR believes it is, or will be, unable to provide the required quality or quantity of services. Upon such notification, the parties (including a representative of MFFA) shall meet to determine whether such inability requires modification of this Agreement.
3. DEPARTMENT may terminate this contract for the following reasons:
  - a. Contractor Insolvency
  - b. Destruction/Condemnation
4. DEPARTMENT may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time CONTRACTOR fails to perform as required in this Agreement, subject to the notice and right to cure provisions set out in Section 3(18) above.
5. DEPARTMENT agrees to notify the MFFA and Trustee within 15 days of the DEPARTMENT'S decision, if, for any reason, DEPARTMENT decides not to seek funding for the prerelease program through the executive budget process.

**17. CHOICE OF LAW AND VENUE**

The laws of Montana govern this Agreement. The parties agree that any mediation, arbitration or litigation concerning this Agreement must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana (Ref. 18-1-401, MCA).

**18. LICENSURE**

CONTRACTOR agrees to maintain and provide as requested, documentation to confirm registration, licensure, or certification of any person performing services under this Agreement that requires such registration, licensure, or certification.

**19. INTEGRATION**

This Agreement 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 Agreement, shall be binding or valid. This Agreement shall not be enlarged, modified, or altered except upon written agreement signed by all parties to the Agreement.

**20. SEVERABILITY**

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

**21. COMPLETED CONTRACT**

CONTRACTOR cannot disburse any payments under this Agreement until a fully executed original Agreement is returned to the Department of Corrections, Fiscal Bureau, P.O. Box 201301, 1539 11<sup>th</sup> Avenue, Helena, MT 59620-1301. A second Original shall be maintained at CONTRACTOR's corporate office at 2350 Mullan Road, Missoula, Montana 59808.

**22. NOTICE OF POLICY CHANGES**

DEPARTMENT shall notify CONTRACTOR whenever DEPARTMENT has proposed or considered administrative rule or policy changes which could affect CONTRACTOR'S financial operation or the intent of this contract. Should this occur, DEPARTMENT agrees to negotiate these changes or this contract, prior to implementation of these administrative rules or policies. CONTRACTOR must comply with all other rule or policy changes and DEPARTMENT shall transmit written copies of any such changes within ten (10) working days of their adoption.

**23. ARBITRATION**

Any claim arising out of, or related to this contract shall be settled in 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. The prevailing party in arbitration or litigation is entitled to costs and reasonable attorney fees connected with the arbitration or litigation.

**24. MISCELLANEOUS MATTERS**

The parties agree that electronic transmissions, such as e-mails, may be used and considered as written transmissions under the terms of this agreement. The parties agree that where there are references to

statutes, policies or administrative rules, those references shall automatically be amended to refer to renumbered statutes, policies, or administrative rules as appropriate.

**25. APPROVAL OF CONTRACT BY MFFA SOLELY FOR FINANCING PURPOSES**

Pursuant to Section 90-7-226, Montana Code Annotated, MFFA is required to approve this Contract if MFFA is involved in the financing of the Prerelease center project. Other than as required by the above-referenced statute, the MFFA does not assume any responsibility or liability under this Agreement.

DEPARTMENT

CONTRACTOR

Mike Ferriter  
Mike Ferriter, Administrator  
Adult Community Corrections Division

Sue Wilkins  
Sue Wilkins, Director  
Missoula Correctional Services, Inc.

3-23-06  
Date

5-30-06  
Date

Approved for Legal Content by:

Diana L. Koch  
Legal Counsel  
Department of Corrections

3/22/06  
Date

Approved for Montana Facility Finance Authority by:

Michelle Bawter  
Executive Director

3/23/06  
Date

Approved by Legislative Audit Division: See attached memo dated January 31, 2006.



**DEPARTMENT OF CORRECTIONS  
PROGRAMS AND FACILITIES BUREAU  
FACILITY OPERATIONAL REQUIREMENT**

Requirement:	<b>PFB 6.2.407 PROGRAM STRUCTURES</b>
Effective Date:	02/27/2019 <span style="float: right;">Page 1 of 6</span>
Revision Date(s):	
Reference(s):	53-1-203, MCA
Signature / Title:	/s/ Megan Coy, Programs and Facilities Bureau Chief

**This requirement is referenced as *ACCD 1.2.700 Offender Money Management* in Section 3.B. Offender Management; Offender fees/fines/R&B, in the following contracts: Alternatives, Inc., Butte Prerelease, Gallatin County Reentry Program, Helena Prerelease, Passages, Connections Corrections Program (CCP), Elkhorn, Nexus, START, and WATCH Contract.**

**This requirement is referenced as *ACCD 3.5.100 Sex Offender Services* in Section 2.C., Program Requirements and Design; Programming and Curriculum (Specific to RFP or Previous Contracts), in the following contracts: Alternatives, Inc., Passages, Butte Prerelease, and Helena Prerelease.**

**This requirement is referenced as *ACCD 5.1.202 PRC Program Structure* in Section 2.C.1. Program Requirements and Design; Programming and Curriculum, in the following contracts: Alternatives, Inc., Butte Prerelease, Gallatin County Reentry Program, Helena Prerelease, and Passages.**

**This requirement is referenced as *ACCD 5.1.300 Treatment Program Structure* in Section 2.C. Program Requirements and Design; Programming and Curriculum, in the following contracts: Connections Corrections Program (CCP), Elkhorn, Nexus, START, and WATCH Contract.**

## **I. PURPOSE:**

The Programs and Facilities Bureau's contracted facilities will be structured to identify the treatment needs of offenders and provide the counseling and programming to meet those needs.

## **II. DEFINITIONS:**

**Criminogenic** – Producing or tending to produce crime or criminals.

**Expenses** – Include room, board, and service charges, medical and dental expenses, child support, court fines and fees, wages earned, taxes paid, and restitution.

**Facility** – The fully equipped and furnished location of a PFB program for the incarceration of offenders in accordance with the contract between the PFB and facility contractor.

**Modified Therapeutic Community Model** – Drug-free residential group settings used in correctional populations that are organized and structured to simulate a healthy family environment, while holding offenders accountable for their criminal conduct. Teaches offenders how to live and function within the larger society and their own families in a sober and pro-social manner. Treatment demonstrates the ripple effects of unwise behavior, instills constructive conduct, and improves communication skills.

**PFB-Programs and Facilities Bureau** – The Bureau oversees the facilities providing assessments and sanctions, prerelease, and treatment services.

**Programs and Facilities Contract Manager** – The Department's employee(s) who acts as the liaison for services and monitors the contractual agreements between the Department and PFB contract facilities.

### III. REQUIREMENTS:

#### A. PRERELEASE CENTERS:

1. PRC programs offer an alternative to the direct release of an offender from prison or jail to the community and an alternative to prison in the placement of parole violators and offenders sentenced to the Department. These facilities and programs provide supervision, guidance, counseling, and an opportunity for the offender to adjust to the community in a gradual, controlled manner.
2. PRCs shall at a minimum provide offenders with the following:
  - a. Emergency and crisis intervention services;
  - b. An assigned staff member to meet with and advise that offender as directed by phase;
  - c. Case management between a case manager and one or more offenders;
  - d. Individual or group sessions directed toward a need or problem, such as health, education, family and interpersonal relationships, financial management, substance abuse, or sexual victimization; and
  - e. Guidance, instruction, and information relating to obtaining and maintaining gainful employment commensurate with the offender's needs and abilities, including identification of job opening, arrangements for interviews, and transportation options as necessary.
3. An individualized program for each new offender will commence within 14 days of the offender's arrival. The individualized program will:
  - a. Describe the offender's treatment, vocational, educational, behavioral, and social expectations and goals;
  - b. Include measurable criteria of expected behavior and accomplishments, a time schedule for achieving specific goals, and scheduled progress reviews;
  - c. Be set forth in writing, signed by the offender and staff, and subject to review and approval by the Department.
  - d. Provide offenders with phase progression criteria subject to Department review upon request.
  - e. Include all treatment and aftercare as recommended by DOC treatment facilities. This information is included on continuum of care and discharge summary documentation.
  - f. Include all required court- or BOPP-ordered conditions and recommendations.
4. Depending on the needs of the offender, PRCs shall provide or make referral to individual and group counseling in substance abuse, employment, health, education, parenting, financial management, mental health, vocational rehabilitation, and evidence-based cognitive behavioral modalities of treatment.
  - a. Each PRC will submit a biannual report to the Contract Manager that outlines current programming available to offenders within the facility and programming available through referral to community resources.
  - b. PRCs will post, maintain, and periodically update a directory of community agencies available to assist offenders or will use a directory that is maintained and updated by another agency.
5. PRCs shall ensure that case managers document all scheduled meetings with offenders in writing subject to review by the Department. Documentation should note offenders' progress in attaining goals relative to their individualized program, identified needs, and any other pertinent issues.
6. A written release program for each offender will be developed in conjunction with the Department.

## Subject: PROGRAM STRUCTURES

- a. The PRC will make all recommendations regarding an offender's release or continued stay at the facility in writing and will coordinate offender's release plans by submitting appropriate pre-parole planning paperwork, conditional release reports, and interstate compact requests in accordance with *PPD 4.6.204 Parole Placement Investigations*, *PPD 4.6.302 Conditional Release of DOC Commitment*, and *PPD 4.6.203 Adult Interstate Commission Procedures*.
  - b. PRCs will ensure case managers have appropriately investigated and verified offenders' release plans verbally or in writing prior to submission to Probation & Parole or the Interstate Compact Section.
7. Offender Accounts: Each PRC will provide the offenders with an offender account for the purpose of accounting for funds belonging to the offender.
8. Fees/Room and Board: Pursuant to Administrative Rules of Montana (ARM) §20.7.201, §20.7.202 and §20.7.204, PRCs may charge an offender for room, board, and services associated with the offender's stay.
- a. Each offender will pay a minimum of \$7.00 per day and a maximum of \$15.00 per day.
  - b. PRCs will inform offenders in writing at the time of orientation of all applicable fees the offender will be charged.
  - c. Upon request, PRCs will submit reports to the Department showing the offender's monthly gross income, the number of days in the facility, and the offender's expenses.
  - d. After an offender's absence from the PRC for five (5) consecutive days, the PRC will suspend the charge of room and board fees until the offender returns.
  - e. PRCs may charge an offender engaged in a Transitional Living Program up to \$4.00/day.
  - f. An offender may be required to pay for damage to the facility, its equipment, furnishings, and fixtures as determined by a DOC hearings officer.
  - g. PRCs have the discretion to forgive all charges, or any portion thereof, based on an assessment of the offender's ability to pay. The Department may, on a case-by-case basis and with written approval, pay the PRC for room and board fees of special needs offenders.
  - h. Pursuant to *PFB 6.2.409 Statistical and Contractor Reports*, PRCs will submit to the Contract Manager all applicable fees charged to offenders for approval no later than July 31<sup>st</sup> each year.
9. Court-Ordered Fines/Fees: Pursuant to §20.7.201 ARM, PRCs will develop and submit for Department approval procedures to document the collection of court-ordered restitution, court-ordered fines, and court-ordered child and spousal support.
- a. PRCs will submit reimbursement collection data to the Department by July 31<sup>st</sup> each year.
  - b. Pursuant to §46-18-241, MCA, all felony District Court-ordered restitution will be withheld and submitted to the Department's Collection Unit on a monthly basis.
10. Sex Offender Services: To assist a sex offender in transitioning to the community, the Department will pay an additional per diem to PRCs providing sex offender services as required by contract.
- a. The center must make a written request to the Contract Manager for each sex offender, outlining the specific services to be provided to the offender. The Contract Manager must approve the services prior to payment being received.
  - b. The services provided to sex offenders include but are not limited to:
    - 1) specialized case management;
    - 2) assistance with full or partial treatment costs;
    - 3) polygraph testing;
    - 4) additional security measures; and
    - 5) GPS monitoring.

**B. TREATMENT FACILITIES:**

1. To assist offenders in understanding the criminogenic effects of chemical addictions and criminal behavior patterns and develop the motivation to change, PFB contract treatment facilities will structure programs using a modified therapeutic community model design and organization that is evidence-based. Traditional chemical dependency treatment, criminal errors in thinking, and relapse prevention will also be strongly emphasized (see also *ACCD 5.3.200 Criminal Thinking Errors*).
  - a. The model will include the following:
    - 1) The application of the principles and curriculum of cognitive restructuring;
    - 2) Specific content areas for treatment and educational activities;
    - 3) Proposed schedules (daily, weekly);
    - 4) The degree of, and structure for:
      - a) managing offender self-governance in community organization;
      - b) a process for selection, enrollment, and discharge and transfer of participants;
      - c) a process for individualized treatment planning; and
      - d) criteria for program completion.
  - b. The program may be followed by placement in a community PRC.
  - c. The program will be structured in phases:
    - 1) *Intake* – Program intake/assessment shall include the following:
      - a) A comprehensive assessment process for each program participant using a standardized and objective assessment that determines level of risk and needs factors, and may include review of any previously given Montana Offender Reentry and Risk Assessment (MORRA) and Women’s Risk and Needs Assessment (WRNA); and
      - b) An objective method by which offenders are assessed at the beginning and end of the program to measure changes in attitude/behavior.
    - 2) *Phase I*: Phase I begins with Orientation. During Phase I, offenders will learn the basic concepts of cognitive restructuring and expectations, as well as completing the assessment process. A pre-treatment motivational component shall also be included. The goals in this phase will include: completion of the assessment process; providing offenders with an overview of the program; initiation on a curriculum of evidence-based cognitive behavioral modalities of treatment; basic concepts of recovery; confronting/correcting criminal thinking; and beginning involvement in group and individual counseling.
    - 3) *Phase II*:
      - a) The primary goal of this phase is to restructure addictive criminal thinking with emphasis on criminogenic needs that pertain to general re-offending and recidivism. Offenders remain in this phase until all requirements of a phase change are satisfied. Offender’s progress will be assessed by the offender and the treatment team throughout phase II.
      - b) Offenders will also be assisted in examining patterns of thought that recur with negative consequences and developing a plan to change such thinking.
      - c) The treatment environment will rely on interaction, modeling, and leadership. Phase II builds upon the basic concepts introduced in Orientation and Phase I, such as: teaching skills needed to allow positive relationships, inciting a pro-social/positive life style; providing self-help and peer group activities; continuing curriculum on confronting anti-social behavior, reinforcing pro-social behavior, and changing criminal thinking; teaching basic elements of recovery from substances; and addressing family and gender role issues.

- 4) *Phase III:*
  - a) This phase will have special emphasis on relapse prevention. Offenders will develop an individual relapse prevention plan in conjunction with facility staff.
  - b) Goals of this phase will include: connecting each offender's aftercare goals to specific methods to accomplish them; how to identify and utilize community resources; continuing of the curriculums; learning and practicing skills necessary to gain and maintain stable employment; learning rules and expectations of prerelease, conditional release, and probation and parole; making aftercare appointments at aftercare providers to ensure the continuum of appropriate care; and contacts/addresses/schedules to support recovery group meetings. Each offender will make final preparation of their transfer of care and send their continued care plans to such providers.
  - c) All Phase III offenders will participate in a transfer conference with the treatment team during the final weeks of treatment. All Phase III offenders respect and adhere to all program rules and regulations, act in a pro-social fashion, and continuously pay it forward at all times.
- 5) *Phase Progression*
  - a) Phase progression will be developed to assess progression from one phase to another based on the inherent phase goals. Criteria for program failure and a plan for handling offender's program progression shall be developed and followed.
  - b) Offenders who do not take responsibility for completing assignments and progressing from phase to phase will face sanctions and, if they do not make positive changes, may be terminated from the program. Every reasonable effort will be made by the staff to prevent this, but failure to comply with basic program requirements will not be allowed. Serious acts of violence or attempted escape will result in termination from the program and transfer to prison status. The PPD Administrator retains sole authority to transfer offenders to a Department program/facility.
2. Offender Accounts: Each treatment facility will provide the offenders with an offender account for the purpose of accounting for funds belonging to the offender.
3. Fees/Room and Board:
  - a. Offenders may be charged room and board fees as follows:
    - 1) Passages ADT and the Connections Corrections Programs (East and West) may charge an offender \$7.00 per day.
    - 2) Offenders may not be charged for room and board fees for the WATCh (East and West), Nexus, and Elkhorn Treatment Centers.
  - b. Treatment facilities will inform offenders in writing at the time of orientation of all applicable fees the facility may charge.
  - c. After an offender's absence from the treatment facility for five (5) consecutive days, the treatment facility will suspend the charge of room and board fees until the offender returns.
  - d. An offender may be required to pay for damage to the facility, its equipment, furnishings, and fixtures as determined by a DOC hearings officer.
  - e. The facility has the discretion to forgive all charges or any portion thereof based on an assessment of the offender's ability to pay.
  - f. Each facility will submit to the Contract Manager all applicable fees charged to offenders for approval no later than July 31<sup>st</sup> each year.

**IV. CLOSING:**

Questions regarding this procedure will be directed to the Programs and Facilities Contract Manager or Programs and Facilities Bureau Chief.



**DEPARTMENT OF CORRECTIONS  
PROBATION AND PAROLE DIVISION  
OPERATIONAL PROCEDURE**

Procedure:	<b>PPD 6.3.415 ENHANCED/TRANSITIONAL SUPERVISION SERVICES</b>
Effective Date:	09/01/2019 <span style="float: right;">Page 1 of 5</span>
Revision Date(s):	
Reference(s):	PFB 6.2.459; PPD 6.1.203; PPD 6.3.101
Signature / Title:	/s/ Kevin Olson, Probation and Parole Division Administrator

**I. PURPOSE:**

Enhanced and/or transitional services will be used to aid offenders integrating back into the community from a facility or offenders not in compliance with their supervision conditions. Probation and Parole Division employees and the providers of enhanced/transitional services will follow established procedures and requirements to ensure the safety and welfare of the offender and community and to assist in the prevention of recidivism.

**II. DEFINITIONS:**

**Case Management Response** – A non-formal action in response to an offender’s behavior in which a Probation & Parole Officer may apply incentives or interventions based on the behavior.

- *incentive* is a response that recognizes and/or rewards desired and targeted offender behavior.
- *intervention* is a response that addresses offender violations of conditions of supervision or rules of a PPD program/facility without a Hearings Officer involvement, unless the offender refuses to agree with the given intervention.

**Community Supervision** – Probation, parole, conditional release, or any form of supervision in the community by a Department probation & parole officer.

**PFB-Programs and Facilities Bureau** – The Bureau oversees the facilities providing assessments and sanctions, prerelease, and treatment services.

**PPD-Probation and Parole Division** – The Division oversees the Probation & Parole regional offices and interstate transfers.

**III. PROCEDURES:**

**A. REFERRAL FOR ENHANCED SERVICES:**

1. Enhanced supervision services are available as an intervention imposed when determined appropriate by a Probation & Parole (P&P) supervising Officer or Hearings Officer using *PPD 6.3.101(A) Montana Incentives/Interventions Grid for Adult Probation & Parole*.
  - a. Offender may be continued on supervision or placed in jail pending service availability.
  - b. Services will not be extended beyond the 90-day period.
  - c. Service interruptions due to a jail/sanction placement longer than 10 days must result in termination from enhanced supervision services. In order to access enhanced supervision services, offender must be re-referred.
  - d. Offender will not be responsible for the costs of the services.

2. Specific services determined appropriate by the offender's supervising P&P Officer or a Hearings Officer may be given for up to 90 days in designated locations based on the level of the intervention.
  - a. If services include a liberty interest, such as GPS monitoring, the services must be referred by a Hearings Officer through an intervention hearing.
  - b. Based on the location-specific services as outlined on *PPD 6.3.415(Attachment) ETSS Services by Location*, P&P Officer completes the applicable *PPD 6.3.415(Attachment) ETSS Referral and Offender Agreement Form* with the appropriate location and specific services. *ETSS Referral and Offender Agreement* is:
    - 1) reviewed with the offender and signed by the offender and Officer;
    - 2) reviewed with the Officer's supervisor and signed by supervisor;
    - 3) uploaded into offender's OMIS record; and
    - 4) forwarded to the provider.
  - c. When availability is confirmed by the provider and a start date established, provider will return *ETSS Referral and Offender Agreement* to the Officer and to [CORETSS@mt.gov](mailto:CORETSS@mt.gov) for the verification of invoices received.
3. If during the service period the P&P Officer determines it is appropriate to change the frequency of selected services (i.e., # of UA's, check-ins), the Officer notifies the ETSS provider and makes a chronological entry in offender's OMIS record.
4. If during the service period the P&P Officer determines it is appropriate to add new services or remove existing services, he/she will update the original *ETSS Referral and Offender Agreement* to indicate the changes made and submit to the provider. A chronological entry in offender's OMIS record is made.
5. Upon receipt of the corresponding *PPD 6.3.415(Attachment) ETSS Notice of Completion Form* from the provider, P&P Officer will upload the *Notice* into offender's OMIS record.

#### **B. REFERRAL FOR TRANSITIONAL SERVICES:**

1. Specific transitional supervision services are available for offenders who are being released to community supervision from prison, an assessment and sanction center, a prerelease center, or a treatment center, and a need for these services has been ordered by the Board of Pardons and Parole or identified by the receiving P&P Officer.
  - a. Services may be provided for up to the first 90 days of community supervision.
  - b. Services will not be extended beyond the 90-day period.
  - c. Service interruptions due to a jail/sanction placement longer than 10 days must result in termination from transitional services. In order to access transitional services, offender must be re-referred.
  - d. *Probationers* must voluntarily agree to the referral for transitional services unless the referral is solely for court-ordered cognitive behavioral programming.
  - e. For *parolees*, services must be ordered by the Board of Pardons and Parole in the offender's disposition.
  - f. The offender will not be responsible for the costs of the services.
2. The receiving P&P Officer will determine the specific services to be provided to the offender based on the offender's needs and individualized case plan during the investigation of an

offender's release plan.

a. Based on the location-specific services as outlined on *PPD 6.3.415(Attachment) ETSS Services by Location*, P&P Officer completes the applicable *PPD 6.3.415(Attachment) ETSS Referral and Offender Agreement Form* with the appropriate location and specific services. *ETSS Referral and Offender Agreement* is:

- 1) reviewed with the offender (by the Officer, or IPPO/program liaison if necessary) and signed;
- 2) reviewed with Officer's supervisor and signed by supervisor;
- 3) uploaded into offender's OMIS record; and
- 4) forwarded to the provider.

b. When availability is confirmed by the provider and a start date established, provider will return *ETSS Referral and Offender Agreement* to the Officer and to [CORETSS@mt.gov](mailto:CORETSS@mt.gov) for service verification purposes.

3. If during the service period the P&P Officer determines it is appropriate to change the frequency of selected services (i.e., # of UA's, check-ins), the Officer notifies the ETSS provider and makes a chronological entry in offender's OMIS record.

4. If during the service period the P&P Officer determine it is appropriate to add new services or remove existing services, he/she will update the original *ETSS Referral and Offender Agreement* to indicate the changes made and submit to the provider. A chronological entry in offender's OMIS record is made.

5. Upon receipt of the corresponding *PPD 6.3.415(Attachment) ETSS Notice of Completion Form* from the provider, P&P Officer will upload the *Notice* into offender's OMIS record.

### C. AVAILABLE SERVICES:

1. When selecting services, the least restrictive options should be chosen and the least number of services selected in order to address the offender's case management response and to achieve the purpose of ETSS.

2. Location-specific services are described on *PPD 6.3.415 (Attachment) ETSS Services by Location* and in the applicable *PPD 6.3.415(Attachment) ETSS Referral and Offender Agreement Form*.

3. Enhanced/Transitional services may include:

- a. one (1) one-on-one meeting with the ETSS service provider per week or as directed by the supervising P&P Officer or Hearings Officer;
- b. up to daily offender check-ins with provider staff which may include, but is not limited to, breathalyzer testing, meeting verifications, job verification;
- c. up to three (3) random drug/alcohol tests per week as designated by the supervising P&P Officer;
- d. development of a weekly itinerary in the community with periodic verification by provider staff;
- e. evidence-based, cognitive behavioral-based treatment/programming;
- f. job development services such as preparing resumes and preparing for interviews;
- g. 24-hour Secure, Continuous, Remote, Alcohol Monitoring (SCRAM) or other drug/alcohol testing mechanisms as approved by PFB;

- h. electronic/GPS monitoring; and
- i. assistance with application processes for needed services, including but not limited to:
  - 1) treatment/programming,
  - 2) behavioral health peer support services,
  - 3) family services, and
  - 4) reentry services:
    - housing,
    - public assistance (OPA/Medicaid),
    - budgeting and financial planning,
    - veterans,
    - vocational (Job Service/Vocational Rehab), and
    - educational.

#### **D. GENERAL REQUIREMENTS FOR ETSS PROVIDERS:**

1. Prior to implementation of services and annually will provide in-service training to P&P Officers.
2. The training shall include information about the service provided by the contractor, the referral process, communication strategies for providing status updates to supervising P&P Officers, and other information about the services as requested by PFB.
3. All cognitive-behavioral programming must be approved through the Department's program approval process.
4. The provider will complete an orientation with the offender upon placement into the program and review the agreement.
5. The provider will provide status updates when requested and contact the supervising P&P Officer for any significant issues related to the offender, e.g., failed drug/alcohol test, failure to check-in daily, etc.
6. Provider staff will maintain written documentation of all scheduled meetings and communications relating to participating offenders, provide documentation to supervising P&P Officer when requested, and report on services completed at the end of the ETSS period.
7. Provider will email *ETSS Referral and Offender Agreement* to [CORETSS@mt.gov](mailto:CORETSS@mt.gov) upon an offender's initial referral or a change (i.e., additions or removal) of service(s). Email subject line must read: "Location: Offender last name, first name, DOC#; ETSS 'Referral' or 'Change.'" "
8. Within three (3) working days of an offender's completion of services, provider will complete and email *PPD 6.3.415(Attachment) ETSS Notice of Completion* to [CORETSS@mt.gov](mailto:CORETSS@mt.gov) and the supervising P&P Officer. Email subject line must read: "Location: Offender last name, first name, DOC#; ETSS Completion."
9. A certificate of successful completion of cognitive-behavioral programming must be provided to the offender.

**IV. CLOSING:**

Questions regarding this procedure should be directed to the POII, Deputy Chief, Probation & Parole Bureau Chief, or Programs and Facilities Bureau.

**V. FORMS:**

PPD 6.3.415 (Attachment)	ETSS Services by Location
PPD 6.3.415 (Attachment)	ETSS Referral and Offender Agreement Form (A-C)
PPD 6.3.415 (Attachment)	ETSS Notice of Completion Form (A-C)

## Weiss, Rachel

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**From:** Wynona Wilder <wynonawilder@gmail.com>  
**Sent:** Friday, September 11, 2020 5:45 PM  
**To:** Weiss, Rachel  
**Subject:** [EXTERNAL] Law & Justice Council Public Comment: MCE Consumer Complaint Report  
**Attachments:** MCE CC A2020.doc; MCE Dairy Inspector Report MT Department of Livestock.doc

Dear Law & Justice Council,  
Please take note of the attached Dairy Inspector Report from the Montana Department of Livestock.

This example demonstrates Montana State Prison's tendency to cover up internal prisoner complaints to State agencies that are periodically assigned oversight of prison operations.

Although the Dairy Inspector was told by Deer Lodge Prison employees that this August event was an isolated incident, the prisoners themselves had truthfully complained to prison supervisors about the sour milk for months but nothing changed. As time went on, complaints were made to a man named Jim Salmonsens. He is their Warden over there in Deer Lodge. Still, prisoner complaints about the milk were met with indifference. The warden insisted that the milk was "fine". The warden's lack of follow through concerns me.

I was told that this warden didn't even bother to taste the milk for himself. It makes me wonder if the warden kind of thought the prisoners deserve what they got — Rancid milk.

Month after month of bad milk, is kind of like gaslighting. Sure these fellows made some mistakes in life that led to their being in prison. They are doing their time however, intentional disregard for food poisoning? Well, that is just uncalled for.

We appreciate Montana Department of Livestock taking the time to do such a thorough investigation. It is unfortunate that Montana State prison did not admit to the investigator that prisoners had indeed been complaining for months about the spoiled milk. They had indeed been suffering from food poisoning from the milk for several months. Their complaints were totally ignored by Prison staff. The existence of those complaints were also withheld from the Dairy Inspector when she inquired about them. That is not right. The Department of Corrections should not be able to get prisoners complained to supervisors about the milk but nothing changed. So as time went on, complaints were made to a man named Jim Salmonsens. He is their Warden over there in Deer Lodge. Still, their complaints were met with indifference. The the warden insisted that the milk was "fine". The warden's lack of follow through concerns me.

I was told that this warden didn't even bother to taste the milk for himself. It makes me wonder if the warden kind of thought the prisoners deserve what they got... Rancid milk.

Month after month of bad milk, is kind of like gaslighting. Sure these fellows made some mistakes in life that led to their being in prison. They are doing their time however, intentional disregard for food poisoning? We' with lying to state agencies who are there to provide oversight. The final report from the Dairy Inspector proves that what inmates had complained about was indeed true. This report should be seen as an example of Prison staff lying to state agencies who are charged with investigating their operations.

Please, take action on securing the oversight of all future and past investigations of the Department of Corrections albeit State agency investigations, internal investigations, and prisoner initiated complaints.

----- Forwarded message -----

From: **Hickey, Rosemary** <[rhipkey@mt.gov](mailto:rhipkey@mt.gov)>

Date: Thu, Sep 10, 2020 at 3:25 PM

Subject: MCE Consumer Complaint Report

To: [Wiynonawilder@gmail.com](mailto:Wiynonawilder@gmail.com) <[Wiynonawilder@gmail.com](mailto:Wiynonawilder@gmail.com)>, Mark Syverson <[msyverson@adlc.us](mailto:msyverson@adlc.us)>, Zaluski, Marty <[MZaluski@mt.gov](mailto:MZaluski@mt.gov)>

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# STATE OF MONTANA

STEVE BULLOCK, GOVERNOR

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DEPARTMENT OF LIVESTOCK  
PO BOX 202001  
HELENA, MONTANA 59620-2001  
(406) 444-7323  
(406) 444-1929, FAX



ANIMAL HEALTH DIVISION (406) 444-2043  
BRANDS ENFORCEMENT DIVISION (406) 444-2045  
CENTRALIZED SERVICES DIVISION (406) 444-4994  
EXECUTIVE OFFICE/BOARD OF LIVESTOCK (406) 444-9321  
MEAT & POULTRY INSPECTION DIVISION (406) 444-5202  
MILK & EGG BUREAU (406) 444-9761

## MCE Dairy Consumer Complaint Report

9 September 2020

On 13 August 2020, Mark Syverson of Tri County Environmental Health contacted me to discuss a consumer complaint he had received regarding Montana Correctional Enterprises milk. The complainant stated that for months inmates had been served sour milk and were subsequently very ill. Mr. Syverson asked the complainant for specific dates. August 11, 2020 was the only date given.

I immediately contacted MCE's dairy processing supervisor and learned that over the first weekend in August a compressor in the dairy plant cooler failed. The failure was not discovered until Monday August 3rd. The processing supervisor distributed the milk after smelling and tasting it without consulting his supervisor or me nor did he take a temperature of the product. This led to consumption of temperature abused milk. Legally milk must be held at 45° Fahrenheit or lower. The dairy lab technician recorded product temperatures of 52° Fahrenheit on Monday August 3rd. The milk should not have been distributed. This was highly unusual occurrence and plant personnel understand the mistake. The code dates on the milk distributed were 8/8 and 8/11. When food service employees realized the product was spoiled, they disposed of all product with the date codes of 8/8 & 8/11. A recall was attempted on 13 August, but the product had either been thrown out or consumed. Going forward no milk over 45° Fahrenheit will be distributed. A monitor has been installed in the cooler. If the cooler temperature is greater than 42° Fahrenheit, an alarm will sound. The supervisor will record the temperature of the cooler Monday – Friday. A dairy plant employee will record the cooler temperature on weekends, holidays and when a supervisor is not present. The supervisor will write a standard operating procedure (SOP) for control of finished product. The SOP will reference the temperature log and staff training. I will review the SOP on my next regular inspection.

When possible, no product will leave the cooler before MCE's dairy plant lab reports the product coliform count is less than or equal to 10 CFU/g. I or a representative of the Montana department of livestock milk bureau will be informed if product leaves before the lab reports the results. The supervisor will take the Serve Safe Food Manager training course and sit for a proctored exam. I discussed the new dairy plant requirements with MCE's agriculture director and the administrator.

I spoke with the assistant director of nursing, at the Montana state prison infirmary. Infirmary personnel reviewed inmate referrals from January to August of this year. They provided me with the number of GI and nausea complaints. The incidence of reported GI and nausea complaints were less than 1% of the prison population every month. No inmate complained of food poisoning during this time.

Beyond the incident, my initial thoughts lead me to transportation of the product and the operation, maintenance and cleaning procedures of the milk dispensers. The dispenser bags are single service so would not be an issue as mentioned in the complaint. I instructed the dairy plant supervisor to obtain

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# STATE OF MONTANA

STEVE BULLOCK, GOVERNOR

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samples from milk dispensers at the cafeterias in the WRC, the FSAU, the RHU and industries and have the MCE dairy lab test for coliform levels. Legally, the coliform level must be less than or equal to 10 colony forming units /gram (CFU/g). On August 18 & 19, 20 samples were collected from the cafeterias before and after the evening meal. At the industry cafeteria he sampled before the meal. 19 of the samples were well under 10 CFU/g. One sample from the south facing dispenser in the RHU had a coliform count of 28 CFU/g. All but two temperatures were below 41° Fahrenheit, the legal limit for retail milk storage temperatures according to the Code of Federal Regulations (CFR). Both sides of the south facing dispenser in the RHU cafeteria were 34° Fahrenheit before supper and 47° after supper. On August 23, Mr. Connors collected 21 samples from the FSAU AND RHU cafeterias. I collected the samples on 24 August and submitted them to Montana state diagnostic laboratory on 25 August. 7 of 10 samples from the FSAU had no coliform. The highest count was 6 CFU/g after breakfast. In the RHU, 3 of 11 samples had no coliform, 5 were under 5 and one exceeded the limit (16 CFU/g).

On the afternoon of August 28, I visited the RHU cafeteria. Both dispensers were clean. The cafeteria is well lighted and the serving and seating areas also clean. The North dispenser was holding milk at 33° Fahrenheit and the display thermometer on the dispenser read 34° Fahrenheit, within the 2° accuracy required of food service thermometers. The South side dispenser was 36° Fahrenheit but the thermometer on the dispenser read 40° Fahrenheit. I was informed by the attending civilian supervisor there is a long-standing work order to adjust this thermometer. The milk had been in the dispensers since lunch which ends around 12:30. All the tubes to dispense milk were not under refrigeration. The maximum time a perishable product may be out of temperature control is four hours. No log exists to record the time the bags are placed in the dispensers. Three of the four tubes had been cut to dispense milk. The tubes were cut correctly according to CFR 4-502.13 (B) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one-inch protruding from the chilled dispensing head. I spoke with the food service director, on several occasions. My recommendations follow:

- Upon a delivery truck arriving at all cafeterias have an employee take the temperature of the dairy products before they are off loaded and record the value on a temperature log. The Serve Safer manual has images of how this can be done without damaging the product.
- Check the thermometers accuracy at least once / year, preferably twice a year against a known temperature (ice bath) or a certified thermometer (available at the dairy lab). Record date checked and any correction factor on a label affixed to the thermometer. This includes the thermometers on the coolers at the cafeterias and the dispenser machines. Best practice is to allow supervisors to adjust the dispenser thermometers rather than maintenance. Instructions are posted on the inside door of the machines. This is really a standard operating procedure and not a maintenance issue.
- Record the time a dispenser bag is placed in the dispenser unit. This can be as simple as writing the time on the dispenser bag with a food contact approved marker.
- If a dispenser has an open tube and will be out of temperature control for more than four hours, tuck the tube into the refrigeration unit.
- If a dispenser has an open tube and will be out of temperature control for less than four hours but between service times, flush the tube with ½ a cup cold milk from the dispenser before serving.

Best practice is to keep the dispenser bags in the main cooler until ready to use. If this is not practical, then tuck the tube into the dispenser refrigeration unit the next mealtime so it will not be out of

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temperature. I would like to review a SOP developed by the Food Service Director including my recommendations and cleaning procedures for the dispensers. The staff trained accordingly.

I spoke with the director of the food factory and discussed the temperature probes they have placed in the refrigerated trucks that deliver food and milk to the Deer Lode facility and other institutions. I also spoke with the warehouse foreman. All the refrigerated units have a temperature sensor with a display in the cab of each truck. The refrigeration units automatically turn on at a set temperature, depending on the unit, well below the legal temperature for food transportation.

In conclusion, a lapse in judgement led to ingestion of temperature abused milk by consumers of MCE dairy products. It may be possible that, at times, the milk in the dispenser tubes may be out of temperature control for more than four hours. A few changes incorporated into the daily operations of the dairy plant and the cafeterias will go far to ensure the safety of MCE dairy products.

MCE dairy's products and pasteurization equipment have, over time, consistently met the legal requirements for milk and milk products. The food factory and food service have a good supervisor training program in place and take pride in serving safe food. I would like to thank the supervisors and managers for all the assistance, access and willingness to incorporate my recommendations into their programs.

If I may be of further assistance, please contact me.

Sincerely,  
*Rosemary Hickey, RS*  
*State of Montana Livestock*  
*Milk & Egg Inspector*  
*406 544 5251*

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# STATE OF MONTANA

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MILK & EGG BUREAU (406) 444-9761

## MCE Dairy Consumer Complaint Report

9 September 2020

On 13 August 2020, Mark Syverson of Tri County Environmental Health contacted me to discuss a consumer complaint he had received regarding Montana Correctional Enterprises milk. The complainant stated that for months inmates had been served sour milk and were subsequently very ill. Mr. Syverson asked the complainant for specific dates. August 11, 2020 was the only date given.

I immediately contacted MCE's dairy processing supervisor and learned that over the first weekend in August a compressor in the dairy plant cooler failed. The failure was not discovered until Monday August 3rd. The processing supervisor distributed the milk after smelling and tasting it without consulting his supervisor or me nor did he take a temperature of the product. This led to consumption of temperature abused milk. Legally milk must be held at 45° Fahrenheit or lower. The dairy lab technician recorded product temperatures of 52° Fahrenheit on Monday August 3rd. The milk should not have been distributed. This was highly unusual occurrence and plant personnel understand the mistake. The code dates on the milk distributed were 8/8 and 8/11. When food service employees realized the product was spoiled, they disposed of all product with the date codes of 8/8 & 8/11. A recall was attempted on 13 August, but the product had either been thrown out or consumed. Going forward no milk over 45° Fahrenheit will be distributed. A monitor has been installed in the cooler. If the cooler temperature is greater than 42° Fahrenheit, an alarm will sound. The supervisor will record the temperature of the cooler Monday – Friday. A dairy plant employee will record the cooler temperature on weekends, holidays and when a supervisor is not present. The supervisor will write a standard operating procedure (SOP) for control of finished product. The SOP will reference the temperature log and staff training. I will review the SOP on my next regular inspection.

When possible, no product will leave the cooler before MCE's dairy plant lab reports the product coliform count is less than or equal to 10 CFU/g. I or a representative of the Montana department of livestock milk bureau will be informed if product leaves before the lab reports the results. The supervisor will take the Serve Safe Food Manager training course and sit for a proctored exam. I discussed the new dairy plant requirements with MCE's agriculture director and the administrator.

I spoke with the assistant director of nursing, at the Montana state prison infirmary. Infirmary personnel reviewed inmate referrals from January to August of this year. They provided me with the number of GI and nausea complaints. The incidence of reported GI and nausea complaints were less than 1% of the prison population every month. No inmate complained of food poisoning during this time.

Beyond the incident, my initial thoughts lead me to transportation of the product and the operation, maintenance and cleaning procedures of the milk dispensers. The dispenser bags are single service so would not be an issue as mentioned in the complaint. I instructed the dairy plant supervisor to obtain

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