

DRUG SCREENING AND TESTING CONTRACT

BETWEEN THE

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILDREN AND FAMILY SERVICES
AND

COMMUNITY BASED SERVICES LLC

This contract is entered into by and between the Nebraska Department of Health and Human Services, **DIVISION OF CHILDREN AND FAMILY SERVICES** (hereinafter "DHHS"), and **Community Based Services LLC, 8109 Fort Street, Omaha NE 68134** (hereinafter "Contractor").

PURPOSE. The purpose of this contract is to provide Drug Screening and Testing services for wards, and parents of wards of the State of Nebraska and families of non court involved cases.

I. TERM AND TERMINATION

- A. TERM. This contract is in effect from January 1, 2013 until June 30, 2013.
- B. TERMINATION. This contract may be terminated at any time upon mutual written consent or by either party for any reason upon submission of written notice to the other party at least Thirty (30) days prior to the effective date of termination. DHHS may also terminate this contract in accord with the provisions designated "FUNDING AVAILABILITY" and "BREACH OF CONTRACT." In the event either party terminates this contract, the Contractor shall provide to DHHS all work in progress, work completed, and materials provided to it by DHHS in connection with this contract immediately.

II. CONSIDERATION

- A. DHHS agrees to pay the Contractor a **maximum of \$100.00 per drug screen or test**, including the initial test and verification or lab confirmation.
- B. DHHS will pay **\$15.00 for up to two (2) refusals per case per month**. The Contractor must provide written documentation of each refusal, including signature of the client. The Contractor must document any refusals indicating the time, place and date.
- C. DHHS agrees to pay the Contractor a maximum amount not to exceed **\$250,000.00** for the services specified herein.
- D. All service costs are included in the established rate for each service. No additional costs will be billed to DHHS.

- E. The Contractor understands and agrees that this Contract does not guarantee that DHHS shall request such services. Furthermore, the Contractor understands and agrees that no minimum number of referrals for services from DHHS shall be expected.
- F. DHHS reserves the right to withhold payment until required reports are received.
- G. The Contractor is responsible for any and all costs associated with the production and delivery of reports. No other charges may be submitted under the terms of this contract without prior approval and agreement of DHHS.
- H. The Contractor agrees not to accept payment from the family of the youth under the terms of this Contract unless an established part of DHHS's case plan includes a fee for services.
- I. The Contractor is expected to submit DHHS provided billing documents within ninety (90) days of the provision of service. The Contractor understands and agrees that any bills submitted for payment that are over a year from the date of service will not be paid.

III. SCOPE OF SERVICES

A. PROGRAM STANDARDS

- 1. Drug screens or tests are a technical analysis of a biological specimen, urine, hair, blood, sweat, or oral fluid / saliva to determine the presence or absence of specified drugs
- 2. DHHS may end services immediately upon notice for such reasons as alleged child abuse or neglect, court discharge, or other causes determined by DHHS to be in the best interest of the youth.
- 3. If the Contractor has reasonable cause to believe that a child has been subjected to child abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in child abuse or neglect, the Contractor shall report the matter to DHHS's Hotline 1-800-652-1999.
- 4. Drug Screening and Testing (DST) protocols and procedures must be submitted to the Service Area Contract Liaison or designee and are subject to their approval.

B. SERVICE STANDARDS:

- 1. The Contractor will ensure that only the following are subjected to drug screens and tests
 - a. Youth adjudicated as delinquent.
 - b. Parents of wards of the State of Nebraska in which the parent(s) has an identified substance abuse problem which directly impacts the child's safety.
- 2. The Contractor will utilize a method that is random, irregular and on a rotating basis of DST of youth that has been approved by DHHS prior to implementation.
- 3. DST will be performed at a pre-identified testing site.

C. ADMINISTRATIVE STANDARDS.

- 1. Court Testimony:
 - a. The Contractor agrees, upon request of DHHS, to provide testimony in court at no additional cost to DHHS.
- 2. Record Keeping and Releasing of Information:
 - a. The Contractor must be able to maintain a confidential record of any individual referred which is to be kept separate and apart from any consumer records maintained by the contractor for other entities than DHHS.

- b. No photographs or slides or other identifying information regarding a child may be released for use on posters, in presentations, press releases, newsletters etc., without the written consent of DHHS and agreement of the parent, if parental rights are intact.
3. Required Reports:
- a. The Contractor must submit a written summary report to the designated DHHS staff person no later than the 15th day of the month following the provision of services.
 - b. The monthly report should include results of all tests completed and a listing of any refusals, including the name of person that was to be tested, the date, the time and the place.
 - c. The Contractor agrees to provide additional reports upon request by DHHS for court appearances or other special purposes.
 - d. The reports must be in a format approved by DHHS. These reports can be sent electronically by secure email. Signed originals must be available if requested by DHHS.
 - e. The Contractor agrees to notify the CFS Specialist the next business day, unless otherwise specified in the service referral, of any positive results, or refusals to determine further testing plans.
4. Incident Report: The Contractor shall immediately report (verbally) to Child and Family Services Specialist or Department On-Call Worker all significant events which will affect the youth's status (e.g., running away, aggressive behavior, suicidal ideation, minor illness that does not respond to treatment, major illness, accident, change in school status, etc.).
5. Critical Incident Report: The Contractor shall immediately report (verbally to the Child and Family Services Specialist or Department On-Call Worker any critical incident. The term Critical incident includes, but is not limited to:
- a. Death of a child/youth resulting from abuse or neglect;
 - b. Near fatality, life threatening condition or serious injury of a child/youth resulting from abuse or neglect.
 - c. Suicide, or attempted suicide of a state ward or child/youth DHHS is involved with;
 - d. Death of a state ward or child/youth DHHS is working with by other means, accidental or non-accidental;
 - e. Death or non-accidental serious injury of a staff person while on the job;
 - f. Allegations or arrests of DHHS youth for serious illegal/criminal activity (i.e. homicide; manslaughter; near fatality of another person; sexual assault; assault first or second degree; aggravated or armed robbery; etc,
 - g. Any other event that is highly concerning, poses potential liability, or is of emerging public interest;
 - h. Any other incident designated by the Division Director.
6. Other special reports may be requested by DHHS as mutually agreed upon by both parties.

D. ORGANIZATIONAL STANDARDS:

- 1. STAFF STANDARDS:
 - a. Background Checks:

- (1) The Contractor agrees to conduct a National Criminal History Check on all newly hired employees, interns, and volunteers if it is foreseeable that that individual may have contact with youth during the course of providing direct services in the performance of this Contract.
- (2) The Contractor agrees to perform in-state background checks on all newly hired employees, interns, and volunteers if it is foreseeable that that individual may have contact with youth during the course of providing direct services in the performance of this Contract. Such in-state background checks shall include a check of the following state registries:
 - (a) The Sex Offender Registry maintained by the Nebraska State Patrol.
 - (b) The Nebraska Child Abuse and Neglect Central Register.
 - (c) The Nebraska Adult Abuse and Neglect Central Register
- (3) The Contractor shall complete the initial background checks before the individual has direct contact with any youth. If a background check results in a record being identified, the Contractor shall not allow the individual to have direct contact with any youth.
- (4) The Contractor agrees to perform out-of state background check on all newly hired employees, interns, and volunteer who have resided in Nebraska for less than two (2) years if it is foreseeable that that individual may have contact with youth during the course of providing direct services in the performance of this Contract. The Contractor shall complete the initial background checks before the individual has direct contact with any youth. If an individual's prior state of residence does not maintain a Sex Offender Registry, Child Abuse and Neglect Central Register, an Adult Abuse and Neglect Central Register, or any such similar registry, the Contractor shall complete a criminal background checks in the cities, counties and states of previous residence. If a background check results in a record being identified, the Contractor shall not allow the individual to have direct contact with any youth.
- (5) If a background check results in a record being identified, the Contractor shall develop a process to review and determine if they want to request Department approval to hire said employee. Requests for an exception shall be made in writing to the Service Area Contract Liaison and will included the name and background information, along with supporting documentation from the Contractor as to why they believe that such person does not pose a threat to children or families. The Contractor shall utilize the criteria set forth in DHHS Policy 390 NAC 7-004.02d 2 and 3 when a background record is identified. DHHS shall have 45 days to respond to such an exception. All documentation related to the process is maintained in the contractor's staff personnel records.
- (6) Current Employees. The Contractor shall complete background checks every two (2) years for all current employees. If a current employee residing in a state, other than Nebraska, and that state does not maintain a: Sex Offender Registry; Child Abuse and Neglect Central Register; an Adult Abuse and Neglect Central Register, or any such similar registry, the Contractor shall complete a national, state and local criminal background check. If a

background check results in a record being identified, the Contractor shall not allow the individual to have direct contact with any youth.

(7) All background check documentation shall be maintained in staff personnel records. This includes documentation requested and received from states other than Nebraska.

b. Staff Qualifications:

(1) The Contractor must ensure that all staff maintain credentials applicable to the services being provided.

(2) Staff Training:

(a) Staff must be trained to ensure program fidelity; understanding the child welfare and juvenile services systems to support child and community safety, permanency and well-being; service/resource availability within communities located in the Service Area or Areas served; and understanding the needs of special populations.

(b) The plan must include training of new staff due to turnover.

c. Supervisor Qualifications: The Contractor must ensure that all supervisory staff meets the qualifications outlined within the evidence based models promising practices or services model.

E. OVERPAYMENTS: Should DHHS overpay the Contractor for services rendered or make payments in error for services that were not provided, the Contractor shall notify DHHS within the next regular billing cycle. The Contractor understands that any and all overpayments remain the property of DHHS and that DHHS retains the right to recover any and all amounts overpaid. DHHS shall offset overpaid amounts by withholding or reducing future payments.

F. TOBACCO SMOKE PROHIBITED: Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to child under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable Federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. The Contractor agrees to comply with the requirements of the Act and shall not allow smoking within any portion of any indoor facility used for the provision of services for child defined by the Act.

The Contractor agrees to prohibit smoking in any vehicle operated by its employees and staff when transporting child while providing services under this Contract.

G. INSURANCE:

1. The Contractor shall maintain the following types of insurance for the duties performed under this contract:
 - a. General liability,
 - b. Workers Compensation, as required by Nebraska law,
 - c. Automobile, both non-owned and hired car,
 - d. Professional liability,
 - e. Errors and omissions, if applicable to the duties performed under this contract, and,
 - f. Premises and property.
 2. The Contractor shall provide to DHHS within thirty (30) days of execution of this Contract a certificate of insurance for the above mentioned insurance. Notice of cancellation of any insurance policies must be submitted immediately to the Service Area Contract Liaison or designee, along with evidence that the Contractor has obtained replacement coverage for the canceled policy(s), to ensure that there is no break in coverage.
- H. HIV TESTING PROHIBITED: DHHS does not allow HIV antibody testing or other screening testing for the AIDS virus of a state ward without informed consent in writing from the Child and Family Services Specialist or designee. When consent is obtained, testing must be performed according to written Department policy, which includes procedures for ensuring confidentiality and for use of the state's AIDS Counseling, Testing, Referral and Partner Notification Sites (CTRPN's) when appropriate. In all cases, appropriate pre-test and post-test counseling must be provided. Because the OSHA Act of 1981 requires that all facilities provide a safe working environment, OSHA has adopted the CDC's requirement for Universal Precautions. Therefore, HIV antibody testing or any other AIDS virus testing is never considered necessary as a prerequisite for obtaining services. The Contractor and the Service Area Contract Liaison or designee shall jointly consult regarding obtaining an HIV antibody test on any ward when, despite having taken universal precautions, some exposure to HIV was possible.

When informed consent is requested for such Contractor staff exposure, the Service Area Contract Liaison or designee shall request the Contractor's written OSHA policies (that comply with state law when appropriate) describing the need for informed consent from the ward's guardian, the process by which the testing and the results of testing are kept confidential and not placed in the youth's record, and the fact that the Child and Family Services Specialist or designee shall be notified of the results of such confidential testing.

I. DHHS and the Contractor shall:

Negotiate performance measures for outcomes that are aligned with the Child and Family Services Review Protocol;
Develop and adopt continuous improvement strategies for services performed and outlined in this contract;
Simplify and make efficient the performance reporting requirements;
Develop a schedule for desk audit/field audit over the contract year; and

Develop a regular feedback loop with the contractor for ideas to improve the system and discuss what DHHS and Contractor can do collaboratively to improve the overall system.

The 5 Results Based Accountability expectations above will be completed no later than 60 days prior to the FY'14 renewal process.

IV. GENERAL PROVISIONS

A. ACCESS TO RECORDS AND AUDIT RESPONSIBILITIES.

1. All Contractor books, records, and documents regardless of physical form, including data maintained in computer files or on magnetic, optical or other media, relating to work performed or monies received under this contract shall be subject to audit at any reasonable time upon the provision of reasonable notice by DHHS. Contractor shall maintain all records for five (5) years from the date of final payment, except that records that fall under the provisions of Health Insurance Portability and Accountability Act (HIPAA) shall be maintained for six (6) full years from the date of final payment. In addition to the foregoing retention periods, all records shall be maintained until all issues related to an audit, litigation or other action are resolved to the satisfaction of DHHS. All records shall be maintained in accordance with generally accepted business practices.
2. The Contractor shall provide DHHS any and all written communications received by the Contractor from an auditor related to Contractor's internal control over financial reporting requirements and communication with those charged with governance including those in compliance with or related to Statement of Auditing Standards (SAS) 112 *Communicating Internal Control related Matters Identified in an Audit* and SAS 114 *The Auditor's Communication with Those Charged With Governance*. The Contractor agrees to provide DHHS with a copy of all such written communications immediately upon receipt or instruct any auditor it employs to deliver copies of such written communications to DHHS at the same time copies are delivered to the Contractor, in which case the Contractor agrees to verify that DHHS has received a copy.
3. The Contractor shall immediately correct any material weakness or condition reported to DHHS in the course of an audit and notify DHHS that the corrections have been made.
4. In addition to, and in no way in limitation of any obligation in this contract, the Contractor shall be liable for audit exceptions, and shall return to DHHS all payments made under this contract for which an exception has been taken or which has been disallowed because of such an exception, upon demand from DHHS.
5. The above provisions shall survive termination of the contract.

- B. AMENDMENT. This contract may be modified only by written amendment, executed by both parties. No alteration or variation of the terms and conditions of this contract shall be valid unless made in writing and signed by the parties.
- C. ANTI-DISCRIMINATION. The Contractor shall comply with all applicable local, state and federal statutes and regulations regarding civil rights and equal opportunity employment, including Title VI of the Civil Rights Act of 1964; the Rehabilitation Act of 1973, Public Law 93-112; the Americans With Disabilities Act of 1990, Public Law 101-336; and the Nebraska Fair Employment Practice Act, NEB. REV. STAT. §§ 48-1101 to 48-1125. Violation of said statutes and regulations will constitute a material breach of contract. The Contractor shall insert this provision in all subcontracts.
- D. ASSIGNMENT. The Contractor shall not assign or transfer any interest, rights, or duties under this contract to any person, firm, or corporation without prior written consent of DHHS. In the absence of such written consent, any assignment or attempt to assign shall constitute a breach of this contract.
- E. ASSURANCE. If DHHS, in good faith, has reason to believe that the Contractor does not intend to, is unable to, or has refused to perform or continue to perform all material obligations under this contract, DHHS may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of days specified in the demand may, at DHHS's option, be the basis for terminating this contract.
- F. BREACH OF CONTRACT. DHHS may terminate the contract, in whole or in part, if the Contractor fails to perform its obligations under the contract in a timely and proper manner. DHHS may, by providing a written notice of default to the Contractor, allow the Contractor to cure a failure or breach of contract within a period of thirty (30) days or longer at DHHS's discretion considering the gravity and nature of the default. Said notice shall be delivered by Certified Mail, Return Receipt Requested or in person with proof of delivery. Allowing the Contractor time to cure a failure or breach of contract does not waive DHHS's right to immediately terminate the contract for the same or different contract breach which may occur at a different time. DHHS may, at its discretion, contract for any services required to complete this contract and hold the Contractor liable for any excess cost caused by Contractor's default. This provision shall not preclude the pursuit of other remedies for breach of contract as allowed by law.
- G. CONFIDENTIALITY. Any and all information gathered in the performance of this contract, either independently or through DHHS, shall be held in the strictest confidence and shall be released to no one other than DHHS without the prior written authorization of DHHS, provided, that contrary contract provisions set forth herein shall be deemed to be authorized exceptions to this general confidentiality provision. This provision shall survive termination of this contract.

- O. FUNDING AVAILABILITY. DHHS may terminate the contract, in whole or in part, in the event funding is no longer available. Should funds not be appropriated, DHHS may terminate the contract with respect to those payments for the fiscal years for which such funds are not appropriated. DHHS shall give the Contractor written notice thirty (30) days prior to the effective date of any termination. The Contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.
- P. GOVERNING LAW. The contract shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against DHHS or the State of Nebraska regarding this contract shall be brought in Nebraska administrative or judicial forums as defined by Nebraska State law. The Contractor shall comply with all Nebraska statutory and regulatory law.
- Q. HOLD HARMLESS.
1. The Contractor shall defend, indemnify, hold, and save harmless the State of Nebraska and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses ("the claims"), sustained or asserted against the State of Nebraska, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the Contractor, its employees, subcontractors, consultants, representatives, and agents, except to the extent such Contractor liability is attenuated by any action of the State of Nebraska which directly and proximately contributed to the claims.
 2. DHHS's liability is limited to the extent provided by the Nebraska Tort Claims Act, the Nebraska Contract Claims Act, the Nebraska Miscellaneous Claims Act, and any other applicable provisions of law. DHHS does not assume liability for the action of its Contractors.
 3. The above provisions shall survive termination of the contract.
- R. INDEPENDENT CONTRACTOR. The Contractor is an Independent Contractor and neither it nor any of its employees shall for any purpose be deemed employees of DHHS. The Contractor shall employ and direct such personnel as it requires to perform its obligations under this contract, exercise full authority over its personnel, and comply with all workers' compensation, employer's liability and other federal, state, county, and municipal laws, ordinances, rules and regulations required of an employer providing services as contemplated by this contract.
- S. INVOICES: Invoices for payments submitted by the Contractor shall contain sufficient detail to support payment. Any terms and conditions included in the Contractor's invoice shall be deemed to be solely for the convenience of the parties.

the parties shall be construed and enforced as if this contract did not contain the particular provision held to be invalid.

- BB. SUBCONTRACTORS. The Contractor shall not subcontract any portion of this contract without prior written consent of DHHS. The Contractor shall ensure that all subcontractors comply with all requirements of this contract and applicable federal, state, county and municipal laws, ordinances, rules and regulations.
- CC. TIME IS OF THE ESSENCE. Time is of the essence in this contract. The acceptance of late performance with or without objection or reservation by DHHS shall not waive any rights of DHHS nor constitute a waiver of the requirement of timely performance of any obligations on the part of the Contractor remaining to be performed.

NOTICES. Notices shall be in writing and shall be effective upon receipt. Written notices, including all reports and other written communications required by this contract shall be sent to the following addresses:

FOR DHHS:

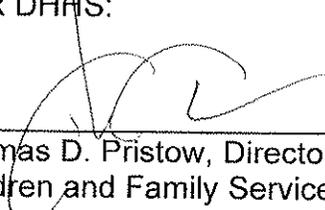
Sara Goscha
DHHS
P.O. Box 95026
Lincoln Nebraska 68509

FOR CONTRACTOR:

Community Based Services
5127 First St
Omaha Ne 68104

IN WITNESS THEREOF, the parties have duly executed this contract hereto, and each party acknowledges the receipt of a duly executed copy of this contract with original signatures.

FOR DHHS:



Thomas D. Pristow, Director
Children and Family Services
Department of Health and Human Services

FOR CONTRACTOR:



Community Based Services

DATE: Jun 9, 2012

DATE: 12-19-12