

2019 PURCHASE OF SERVICE AGREEMENT

LeSueur County, on behalf of LeSueur County Health and Human Services, 88 South Park Avenue, LeSueur, Minnesota, 56057, hereafter referred to as the "Agency" and Blue Earth County Human Services, 410 South Fifth Street, P.O. Box 3526, Mankato, Minnesota, 56002-3526, acting as a local mental health provider, hereafter referred to as the "Contractor," enter into this Agreement for the period of January 1, 2019 to December 31, 2019.

WITNESSETH

WHEREAS, the Contractor is an organization licensed under Rule 29 by the Minnesota Department of Human Services to provide outpatient mental health services to persons; and

WHEREAS, the Agency, pursuant to Minnesota Statutes Sections 373.01 and 373.02, and Chapter 256M of the Minnesota Statutes wishes to purchase such program services from the Contractor for uninsured or underinsured individuals in LeSueur County, herein referred to as fee eligible recipients;

WHEREAS, the Contractor represents that it is duly qualified, willing to perform such services, and has sufficient staff, contractors/subcontractors and professional capacity to provide such services;

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth, the Agency and Contractor agree as follows:

1. CONTRACTOR'S DUTIES

- a. The Agency agrees to purchase and the Contractor agrees to furnish the following services for fee eligible recipients:
 - 1) Psychiatric medication management (adults);
 - 2) Diagnostic assessments;
 - 3) Psychiatric urgent care services;
 - 4) One hour per month of psychiatric consultation
- b. Upon request by the Agency, the Contractor must provide:
 - 1) An explicit description of the services to be provided; and
 - 2) A listing of all involved staff persons, contractors/subcontractors, and their professional qualifications to provide the services.
 - 3) A budget which includes all professional providers to be compensated within the limits of the Contractor's adopted psychiatric provider pay scale. Professional providers allowable under this contract include licensed medical doctors, advanced practice registered nurses, registered nurses, or licensed practical nurses.

- c. The Contractor agrees that all services provided under this contract shall meet the requirements of Minnesota Statutes, sections 245.461 to 245.486 (Comprehensive Adult Mental Health Act) and the Minnesota Comprehensive Children’s Mental Health Act, sections 245.487 to 245.4888.
- d. The Contractor must, within ten (10) days, notify the Agency in writing whenever it is unable to, or going to be unable to, provide the required quality or quantity of purchased services. Upon such notification, the Agency must determine whether such an inability will require modification or cancellation of said contract.
- e. In connection with work under this Agreement, the Contractor agrees to provide language assistance services to applicants and eligible recipients with limited English proficiency as required by Title VI of the Civil Rights Act of 1964. Such assistance shall be given at no additional charge to the client or Agency and in a timely manner for provided mental health services.
- f. Contractor agrees to comply with all of the provisions of the Child Abuse Reporting Act, Minnesota Statutes Section 626.556, as may be amended, and all Minnesota Rules as promulgated by the Minnesota Department of Human Services implementing such Act now in force or hereafter adopted.
- g. Contractor warrants and represents that all providers employed by Contractor to fulfill the terms of this Agreement are currently licensed by the State of Minnesota to provide the intended contracted services. In the event said licenses are cancelled, revoked, suspended, or expire during the term of the Agreement, Contractor agrees to immediately inform the Agency. LeSueur County will only pay for services provided pursuant to such licensing requirement.

2. COST AND DELIVERY OF PURCHASED SERVICES

- a. The rate for purchased services will be \$5,000 per quarter, \$20,000 annually.
- b. The Contractor certifies that the services to be provided under this agreement are not otherwise available without cost to the client. The Contractor further certifies that payment claims for purchased services will be in accordance with rates of payment which do not exceed amounts reasonable and necessary to assure quality of service. The Contractor further certifies that rates of payment do not reflect any administrative or program costs assignable to private pay or third-party pay service recipients.
- c. Purchased services will be provided at Blue Earth County Human Services or via telehealth at 410 South Fifth Street, P.O. Box 3526, Mankato, Minnesota, 56002-3526.

3. ELIGIBILITY FOR SERVICES

The parties understand and agree that the eligibility of the clients to receive purchased services is to be determined in accordance with the eligibility criteria established by the Agency's annual social services plan.

The parties understand and agree that when the Contractor has been delegated to make the determination of the client's eligibility for purchased services:

- a. It is understood and agreed by the parties that fees for fee eligible recipients shall be charged and collected in accordance with the Contractor's sliding fee policy and schedules which are subsequently adopted by the County Board of Commissioners in their annual social services state plan and approved by the Commissioner of Human Services in accordance with the provisions of Minnesota Statutes Section 256M, subd. 6.
- b. The Contractor must not charge any program or service fee to fee eligible clients except in accordance with 3.a. above.

4. PAYMENT FOR PURCHASED SERVICES

- a. Certification of expenditures: The Contractor must submit a quarterly invoice for purchased services to LeSueur County Health and Human Services.
- b. Payment: The Agency must, within thirty (30) days of the date of receipt of the invoice, make payment to the Contractor for all eligible services.

5. DELIVERY OF CARE SERVICES

Except as otherwise produced herein, the Blue Earth County Mental Health Center shall maintain in all respects its present control over and autonomy with respect to:

- a. The application of its intake procedures and requirements to clients.
- b. The methods, times, means, and personnel for furnishing purchased services to clients.
- c. The determination of when to terminate the furnishing of purchased services to clients.
- d. Rates for services, including the sliding fee schedule.

6. AUDIT AND RECORD DISCLOSURES

The Contractor must:

Allow personnel of the Agency, the Minnesota Department of Human Services, and the U.S. Department of Health and Human Services, access to the Contractor's facility and records at reasonable hours to exercise their responsibility to monitor purchased services.

If the collection of social services fees is delegated to the Contractor, the Contractor must provide the Agency with information about fees collected and the fee sources.

Maintain all records pertaining to the Agreement at the Blue Earth County Mental Health Center for six (6) years for audit purposes.

Comply with policies at the Minnesota Department of Human Services regarding social services recording and monitoring procedures, as defined and described in the Department of Human Services' rules and manuals.

7. SAFEGUARD OF CLIENT INFORMATION

- a. The use or disclosure by any party of information concerning a fee eligible client in violation of any rule of confidentiality provided for in Minnesota Statutes Chapter 13, for any purpose not directly connected with the Contractor's responsibility with respect to the purchased services hereunder is prohibited except on written consent of such eligible client, the client's attorney, or the client's responsible parent or guardian.
- b. The Contractor is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA). To the extent that the Contractor performs a function or activity involving the use of "protected health information" (45 CFR section 164.501), on behalf of the Agency including, but not limited to: providing health care services; health care claims processing or administration; data analysis, processing, or administration; utilization review; repricing; or otherwise provided by 45 CFR section 160.103, the Contractor shall comply with the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160-164), (collectively referred to as "HIPAA"), and all applicable requirements.

8. EQUAL EMPLOYMENT OPPORTUNITY AND CIVIL RIGHTS AND NONDISCRIMINATION

The Contractor agrees to comply with the Civil Rights Act of 1964, Title VII (42USC 2000e); including Executive Order No. 11246, and Title VI (42 USC 2000d); and the Rehabilitation Act of 1973, as amended by Section 504;

The Contractor certifies that it has received a certificate of compliance from the Commissioner of Human Rights pursuant to Minnesota Statutes, Section 363.03 (1998). This section applies only if the grant is for more than \$100,00.00 and the Contractor has employed forty or more full-time employees within the State of Minnesota on a single working day during the previous 12 months.

9. FAIR HEARING AND GRIEVANCE PROCEDURES

The Agency agrees to provide for a fair hearing and grievance procedure in conformance with Minnesota Statutes, Section 256.045, and in conjunction with fair hearing and grievance procedures established by Department of Human Services' administrative rules.

10. BONDING, INDEMNITY, INSURANCE, AND AUDIT CLAUSE

- a. Bonding: The Contractor must obtain and maintain at all times, during the term of this Agreement, a fidelity bond covering the activity of its personnel authorized to distribute monies. Such a bond must be in the amount of \$100,000.00
- b. The Contractor shall indemnify, hold harmless and defend the Agency, its officials, employees, and agents from any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees, which the Agency, its officials, employees, and agents may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Contractor, its employees, or agents in the execution, performance, or failure to adequately perform the Contractor's obligations pursuant to this Agreement.
 - 1) By reason of any fee eligible client suffering personal injury, death, or property loss or damage either while participating in or receiving from the Contractor the care and services to be furnished by the Contractor under this Agreement, or while on premises owned, leased, or operated by the Contractor, or while being transported to and from said premises in any vehicle owned, operated, chartered, or otherwise contracted for by the Contractor or Contractor's assigns; or
 - 2) By reason of any service client causing injury to, or damage to, the property of another person, during any time when the Contractor or Contractor's assigns or employee therefore has undertaken of its furnishing the care and service called for under this Agreement.
- c. Insurance: The Contractor further agrees, in order to protect itself and the Agency and the Agency's officers, agents, employees, and elected officials under the indemnity provision above, that it will at all times during the term of the Agreement, and beyond such term when so required, have and keep in force liability insurance as set forth below. Any insurance required to be provided by the Contractor shall be primary, and not excess, to any other coverage carried by LeSueur County. The Contractor is responsible for any deductible or self-insured retention contained within the insurance program.
 - 1) The Contractor will purchase occurrence-based liability insurance. The policy shall include coverage for all applicable liabilities arising out of premises, operations, products, completed operations, personal and advertising injury, and liability assumed under this Agreement. Said liability insurance shall cover all personnel performing services under this Agreement. An umbrella liability policy may be used in conjunction with the primary coverage limits to meet the minimum insurance limit requirements. LeSueur County shall be listed as an additional insured.
 - 2) The applicable liability insurance coverage will meet the limits equal to the tort liability limits under Minnesota Statutes Section 466.04.

11. CONTRACTOR DEBARMENT, SUSPENSION, AND RESPONSIBILITY CERTIFICATION

Federal Regulation 45 CFR 92.35 prohibits the State/Agency from purchasing goods or services with federal money from vendors who have been suspended or debarred by the federal government. Similarly, Minnesota Statutes Section 16C.03, subd. 2 provides the Commissioner of Administration with the authority to debar and suspend vendors who seek to contract with the State/Agency. Contractors may be suspended or debarred when it is determined, through a duly authorized hearing process, that they have abused the public trust in a serious manner.

By signing this contract, the Contractor certifies that it and its principals and employees:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transacting business by or with any federal, state, or local governmental department or agency; and
- b. Have not, within a three (3) year period preceding this contract:
 - a. Been convicted of or had a civil judgment rendered against them for commission of fraud or for a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract;
 - b. Violated any federal or state antitrust statutes; or
 - c. Committed embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement or receiving stolen property; and
- c. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity for:
 - a. Commission of fraud or a criminal offense in connection with obtaining or attempting to obtain or performing a public (federal, state, or local) transaction;
 - b. Violating any federal or state antitrust statutes; or
 - c. Committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and
- d. Are not aware of any information and possess no knowledge that any subcontractor(s) that will perform work pursuant to this Agreement are in violation of any of the certifications set forth above.

Shall immediately give written notice to the Agency should Contractor come under investigation for allegations of fraud or a criminal offense in connection with violating any federal or state antitrust statutes; or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

12. CONDITIONS OF THE PARTIES' OBLIGATIONS

- a. It is understood and agreed that in the event the reimbursement to the Agency from State and Federal sources is not obtained and continued at a level sufficient to allow for the purchase of the indicated quantity of purchased services, the obligations of each party hereunder must thereupon be terminated.

- b. This Agreement may be cancelled by either party at any time, with or without cause, upon thirty (30) days' written notice delivered by mail or in person. In the event of such cancellation, the Contractor shall be entitled to payment, for services rendered, provided that such services performed are in accordance with the provisions of this Agreement.
- c. Before the termination date specified in Section 1 of this Agreement, the Agency may evaluate the performance of the Contractor in regard to the terms of this Agreement to determine whether such performance merits renewal of the Agreement.
- d. Any alterations, variations, modifications, or waivers of provisions of this Agreement will be valid only when they have been reduced to writing, duly signed, and attached to the original of this Agreement.
- e. No claim for services furnished by the Contractor not specifically provided in the Agreement will be allowed by the Agency, nor must the Contractor do any work or furnish any material not covered by the Agreement, unless this is approved in writing by the Agency. Such approval must be considered to be a mediation of the Agreement.
- f. In the event that there is a revision of Federal regulations which might make this Agreement ineligible for Federal financial participation, all parties will review the Agreement and renegotiate those items necessary to bring the Agreement into compliance with new Federal regulations.
- g. The terms of this Agreement and utilization of purchased services will be reviewed by both parties on a quarterly basis. The Agency is responsible for coordinating review meetings in April, July, and October of during the term in this Agreement.

13. SUBCONTRACTING

- a. The Contractor agrees not to enter into subcontracts for any of the work contemplated under this Agreement without written approval of the Agency.
- b. All subcontractors must be subject to and must meet all of the requirements of this Agreement.
- c. The Contractor must ensure that any and all subcontracts to provide services under this Agreement must contain the following language:

The subcontractor acknowledges and agrees that the Minnesota Department of Human Services is a third-party beneficiary, and as a third-party beneficiary, is an affected party under this Agreement. The subcontractor specifically acknowledges and agrees that the Minnesota Department of Human Services has standing to and may take any appropriate administrative action or may sue the Contractor for any appropriate relief in law or equity, including but not limited to rescission, damages, or specific performance, of all or any part of the Agreement. Minnesota Department of Human Services is entitled to and may recover from the Contractor reasonable attorney's fees, costs, and disbursements associated with any action taken under

this paragraph that is successfully maintained. The provision must not be construed to limit the rights of any party to the Agreement or any other third-party beneficiary, nor must it be construed as a waiver of immunity under the Eleventh Amendment to the United States Constitution or any other waiver or immunity.

- d. The Contractor agrees to be responsible for the performance of any subcontractor to ensure compliance to the subcontract and Minnesota Rules, Part 9525.1870, Subpart 3.

14. NONCOMPLIANCE

- a. If either Party fails to comply with the provisions of this Agreement, the non-defaulting Party may seek any available legal remedy.
- b. Either party must notify the other party within thirty (30) days when a party has reasonable grounds to believe that this Agreement has been or will be breached in a material manner. The party receiving such notification must have thirty (30) days, or any other such period of time as mutually agreed to by the parties, to cure the breach or anticipatory breach.

15. THIRD PARTY BENEFICIARY—MINNESOTA DEPARTMENT OF HUMAN SERVICES

The Contractor acknowledges and agrees that the Minnesota Department of Human Services is a third-party beneficiary, and as a third-party beneficiary, is an affected party under this Agreement. The Contractor specifically acknowledges and agrees that the Minnesota Department of Human Services has standing to and may take any appropriate administrative action or may sue the Contractor for any appropriate relief in law or performance of all or any part of the Agreement between LeSueur County and the Contractor. The Contractor specifically acknowledges that LeSueur County and the Minnesota Department of Human Services are entitled to and may recover from the Contractor reasonable attorney's fees, costs, and disbursements associated with any action taken under this paragraph that is successfully maintained. This provision must not be construed to limit the rights of any party to the Agreement or any other third-party beneficiary, nor must it be construed as a waiver of immunity under the Eleventh Amendment to the United States Constitution or any other waiver of immunity.

16. TRANSITION PLAN

Counties must prepare a transition plan that provides for continuity of care in the event of contract termination with a community mental health center under section 245.62, or a community support services program under section 245.462, subdivision 6. The county shall provide at least 90 days' notice of the termination to the contracted agency and the commissioner of human services. A developed transition plan would also provide information to clients on how to access medical records and how to transfer to other providers.

17. ENTIRE AGREEMENT

It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the

subject matter hereof, as well as any previous agreements presently in effect between the Contractor and any county social services agency relating to the subject matter hereof.

GENERAL PROVISIONS

A. Notices

1. Any notice or other communication provided for hereunder will be in writing and may be:
 - a. Served by personal deliver;
 - b. Made by facsimile; or
 - c. sent by overnight courier service (with all fees prepaid)

to the receiving parties as follows, or to any other address which either Party may hereafter designate for itself in writing:

If to CONTRACTOR: Blue Earth County Human Services
ATTN: Sara Emich
410 S. Fifth Street
PO Box 3526
Mankato, MN 56002-3526
Fax: (507) 304-4160

If to AGENCY: LeSueur County Health and Human Services
ATTN: Susan Rynda
88 South Park Avenue
LeCenter, MN 56057

2. Any party may, by notice given in accordance with this Article, designate a different address or person for receipt of all communications or notices.

B. Liaison

1. To assist the parties in the day-to-day performance of this Contract and to develop services, ensure compliance, and provide ongoing consultation, a liaison may be designated by Contractor and Agency. The parties shall keep each other continually informed, in writing, of any change in the designated liaison. At the time of execution of this Contract, the following persons are designated liaisons:

CONTRACTOR: Sara Emich, (507) 304-4407

AGENCY: Pat Rentz, (507) 357-8288

D. Applicable Law

This Agreement shall be governed by and construed in accordance with the State of Minnesota.

E. Jurisdiction and Venue

Any legal action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby will be instituted exclusively in the state and federal courts located in Blue Earth County, Minnesota.

I. Severability

If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, it shall in no way affect, impair, or invalidate any other provision of this Agreement, and the remaining provisions shall remain in full force and effect. To the extent that any such provision is found to be invalid, void, or otherwise unenforceable as written, the Parties authorize the court or through the Parties own agreement to revise it retroactively to the effective date so that it is enforceable to the greatest extent allowed by applicable law.

L. Headings

The headings in this Agreement are for the purposes of reference only and shall not affect or define the meanings hereof.

M. Waiver

The failure of either Party to insist, in any one or more instances, upon a strict performance of any of the terms and conditions of this Agreement, or to exercise or fail to exercise any option or right contained herein, shall not be construed as a waiver or a relinquishment for the future of such right or option, but the same shall continue and remain in full force and effect. The continued performance by either Party of this Agreement with knowledge of the breach of any term or condition hereof shall not be deemed a waiver of such breach, and no waiver by either Party of any provision hereof, shall be deemed to have been made, or operate as estoppel, unless expressed in writing and signed by such Party.

O. Force Majeure

Neither Party shall be liable for any loss or damage incurred by the other party as a result of events outside the control of the party ("Force Majeure Events") including, but not limited to: war, storms, flooding, fires, strikes, legal acts of public authorities, or acts of government in time of war or national emergency.

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Dated: _____

Chairperson, LeSueur County Board

Dated: 6/25/19

Will Luis

Chairperson, Blue Earth County Board

Dated: _____

LeSueur County Administrator

Dated: 6/25/19

Robert W. Meyer

Blue Earth County Administrator