



Aitkin County Health & Human Services

204 FIRST STREET NW
AITKIN, MINNESOTA 56431-1291
PHONE 1-800-328-3744 or 1-218-927-7200
FAX # 1-218-927-7210

Contract

Lutheran Social Services Purchase of Service Agreement for Guardianship/Conservatorship.

Objective

Lutheran Social Services provides professional guardianship and conservatorship services to individuals requiring a substitute decision maker.

Opportunity

This service provides substitute decision making supports to individuals that have been found lack capacity to do so on their own and less restrictive supports have been ruled out as being appropriate to meet their needs. This program is funded by Aitkin County.

Existing or New Contract

This is a contract renewal.

Changes to Existing Contract

The contract changes include permitting an increase in contact hours from three hours a month to five hours per month in situations that are deemed appropriate.

Timeline for Execution

1/1/18-12/31/18

Conclusion

We are requesting the board to continue to support the need to authorize substitute decision makers for individuals that do not have capacity to do so on their own and less restrictive measure have been deemed inappropriate. Lutheran Social Services is able to provide services to Aitkin County clients residing in various locations across the state.



Aitkin County Health & Human Services

204 FIRST STREET NW
AITKIN, MINNESOTA 56431-1291
PHONE 1-800-328-3744 or 1-218-927-7200
FAX # 1-218-927-7210

PURCHASE OF SERVICE AGREEMENT

This Agreement, made and entered into by and between Aitkin County Health & Human Services Agency, 204 1st Street NW, Aitkin, MN 56431, referred to as the "County" and Lutheran Social Services of Minnesota, 1605 Eustis Avenue, Suite 310, St. Paul, MN 55108, hereafter referred to as the "Provider," enter into this agreement for the period from January 1, 2018 to December 31, 2018.

WITNESSETH

WHEREAS, Aitkin County Health & Human Services has identified a need for Guardianship/Conservator services and related legal services for indigent persons who are impaired to the extent of lacking sufficient understanding or capacity to make or communicate responsible personal decisions, and who has demonstrated deficits in behavior which evidence an inability to meet personal needs for medical care, nutrition, clothing, shelter, or safety; or concerning the appointment concerning the person's estate or financial affairs, has demonstrated deficits in behavior which evidence an inability to manage the estate or financial affairs effectively by reason of detention by a foreign power or disappearance.

WHEREAS, this is a mandated service under Minnesota Statute 524.5-101 to 524.5-903 and 252A.01-252A.21; and

WHEREAS, the County wishes to purchase such program services from the Provider;

NOW THEREFORE, in consideration of the mutual understandings and agreements set forth, Aitkin County and Lutheran Social Services of Minnesota agree as follows:

1. TERM:

The term of this Agreement shall be from January 1, 2018 through December 31, 2018. Either party may cancel this Agreement, with or without cause, upon thirty (30) days written notice. Cancellation of this Agreement or expiration of the Agreement term shall not relieve County from paying for Provider's services for wards and protected persons that the Provider is court-appointed to serve, and whom are still eligible for services under this Agreement, before cancellation or termination, so long as Provider remains the court-appointed Guardian and/or Conservator.

2. SERVICES:

a. Pursuant to MN Statutes 256M (Vulnerable Children and Adults Act) the County agrees to purchase and the Provider agrees to furnish the following services:

- Guardianship and Conservatorship Services

3. COST AND DELIVERY OF PURCHASED SERVICES:

- a. The amount paid for service will be billable at \$57.50 per hour.
- b. The Provider is responsible for all costs incurred in the provision of service, including mileage.
- c. Purchased services will be provided in the community or home of the ward or conservatee, or at the office of the Provider.
- d. For Guardianship Only cases the monthly contact permits up to five hours per month not to exceed

\$3450 per year per case without prior authorization. Standard contact time for individuals living in a supervised setting is generally less than individuals living in their own homes. For Guardianship And Conservatorship cases contact permits up to seven hours per month not to exceed \$4830 per case per year without prior authorization.

e. Situations deeming additional contact beyond the established will require prior authorization by the County which will occur during quarterly meetings between the County Case Manager and the Provider.

4. ELIGIBILITY FOR SERVICES:

- a. The County shall determine eligibility for wards or conservatees provided service under the terms of this agreement.
- b. Provider will be reimbursed only in cases where the County has requested and the Court has appointed, the Provider to act as guardian or conservator.

5. INDIVIDUALIZATION:

- a. The amount, frequency and duration of purchased services shall be provided in accordance with the client's Individual Service Plan and Service Agreement, and shall be directed towards each client's achievement of Service Plan goals.

6. PAYMENT FOR SERVICE:

- a. Unless otherwise requested by the County, in cases where the County is the County of Financial Responsibility, the Provider shall, within thirty (30) working days following the last day of each calendar month in which services were provided, submit Vendor Service Vouchers for each individual for whom service was provided. This voucher will reflect the monthly cost less any fees collected from the individual's income.
- b. The County shall make payment to the Provider within thirty (30) days of receipt of the voucher.

7. RECORDS:

- a. The Provider shall maintain such records and provide the County with financial, statistical and service reports as the County may require for accountability.

8. INDEPENDENT CONTRACTOR:

- a. The Provider represents that it has, or will secure at its own expense, all personnel required in performing services under this Agreement. Any and all personnel of the Provider or other persons, while engaged in the performance of any work or services required by the Provider under this Agreement, shall have no contractual relationship with the county and shall not be considered employees of the County, and any and all claims that may or might arise under the Unemployment Compensation Act or the Workers' Compensation Act of the State of Minnesota on behalf of said personnel arising out of employment or alleged employment including, without limitation, claims of discrimination against the Provider, its officers, agents, contractors, or employees shall in no way be the responsibility of the County; and the Provider shall defend, indemnify, and hold the County, its officers, agents, and employees harmless from any and all such claims irrespective of any determination of any pertinent tribunal, agency, board, commission, or court. Such personnel or other persons shall neither require nor be entitled to any compensation, rights, or benefits of any kind whatsoever from the County, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Insurance, disability, severance pay and PERA.
- b. It is agreed that nothing contained in the Agreement, including the payment provisions as specified above for the full term or any portion or extension of the contract period, is intended or should be construed as creating the relationship of co-partners, joint ventures, or an association with the County. And nor shall the Provider, its employees, agents, and representatives be considered employees,

agents and representatives of the County.

9. PROVIDER STANDARDS AND LICENSES:

- a. The Provider shall furnish to the County a background resume to include the following: professional and personal credentials for guardianship/conservatorship, a minimum of three personal/professional references, professional associations and/or accreditation of such, a current Minnesota driver's license in good standing.
- b. The Provider will annually authorize the County to perform a background check under the Criminal Justice Information System for evidence of maltreatment of adults, vulnerable adults, and any criminal exploitation. The Provider will be required to consent to a background check (local and state) prior to a contract being issued.
- c. Provider will comply with all court background check and background reporting requirements, including filling out forms annually and when any changes occur, if applicable.
- d. When required, the Provider shall remain licensed by the State during the term of this Agreement. The County will only pay for Contract Management services provided pursuant to such licensing requirements.
- e. When licensing is required, the revocation of the license shall be the cause for cancellation of this Agreement effective upon receipt of the cancellation notice, other provisions for cancellation of this Agreement notwithstanding.
- f. The Provider shall comply with all applicable Federal and State statutes and regulations, as well as local ordinances and rules now in effect or hereafter adopted including Minnesota Statutes 524.5 et al.
- g. Other provisions for cancellation of this Agreement notwithstanding, failure to meet the requirements of paragraphs a, b, c as stated above may be cause for cancellation of this Agreement effective as of receipt of notice of cancellation.

10. SAFEGUARD OF CLIENT INFORMATION:

- a. The County and the Provider must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the County under this agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Provider under this agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the Provider or the County.
- b. If the Provider receives a request to release the data referred to in this Section, the Provider must immediately notify the County. The County will give the Provider instructions concerning the release of the data to the requesting party before the data is released.
- c. The use or disclosure by any party of information concerning an eligible client in violation of any rule of confidentiality provided for in Minnesota Statutes, Chapter 13, or for any purpose not directly connected with the administration of the County's or Provider'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.
- d. The Provider agrees to defend, indemnify, and save and hold the County, its agents, officers, and employees harmless from all claims arising out of, resulting from, or in any manner attributable to any violation or any provision of the Minnesota Government Data Practices Act, including any legal fees or disbursements paid or incurred to enforce the provisions of this article of the Agreement.
- e. To the extent that Provider performs a function or activity involving the use of "protected health information" (45 CFR 164.501), on behalf of the County including, but not limited to: providing health care services; health care claims processing or administration; data analysis, processing or administration; utilization review; quality assurance; billing; benefit management; practice

management; re- pricing; or otherwise as provided by 45 CFR § 160.103, provider/contractor is a business associate of OCCS for purposes of the Health Insurance Portability and Accountability Act of 1996. Provider agrees to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Part 160-164), (collectively referred to as "HIPAA"), and has executed an addendum to this Agreement for purposes of compliance with HIPAA, which addendum is incorporated herein by this reference.

11. EQUAL EMPLOYMENT OPPORTUNITY AND CIVIL RIGHTS AND NONDISCRIMINATION:

- a. The Provider agrees to comply with the Civil Rights Act of 1964, Title VII, 42 U.S.C. 2000e, including Executive Order No. 11246, Title VI, 42 U.S.C. 2000d, 42 U.S.C. § 12101, et seq. ("ADA"), 28 C.F.R. § 35.101-35.190, Title IX of the Educational Amendments of 1982 as amended, Sections 503 and 504 of the Rehabilitation Act of 1973, and all other Federal regulations which prohibit discrimination in any program receiving federal financial assistance and the Minnesota Human Rights Act, Minnesota Statutes, 363A.01 et seq.
- b. It is the County's policy that all providers desiring to do business with the County adhere to the principles of Equal Employment Opportunity and Affirmative Action. This requires not only that providers do not unlawfully discriminate in any condition of employment on the basis of race, color, sex, religion, national origin, or age but that they also take affirmative action to insure positive progress in Equal Opportunity Employment. To the extent applicable, the Provider certifies that it has received a certificate of compliance from the Commissioner of Human Rights pursuant to Minnesota Statutes, section 363A.36. This section only applies if the Agreement is for more than \$100,000.00 and the Provider has employed 40 or more employees within the State of Minnesota on a single working day during the previous 12 months.

12. CONFLICT OF INTEREST:

Provider agrees that it will neither contract for nor accept employment for the performance of any work or services with any individual, business, partnership, corporation, government, governmental unit, or any other organization that would create a conflict of interest in the performance of its obligations under this Agreement.

13. CONTRACT DISPUTES:

- a. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement shall be subject to negotiation and agreement by the County. A written copy of the determination will be provided to the Provider and will be deemed final copy and conclusive unless, within thirty (30) days from the date of receipt of such copy, the Provider furnishes to the County a written appeal. The decision of the County for the determination of such appeals, shall be through the Director of the County and shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, and so grossly erroneous as necessarily to imply bad faith or not supported by substantial evidence. In conjunction with any appeal proceeding under this clause, the Provider shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Provider shall proceed diligently with the performance of the Agreement.
- b. This disputes clause does not preclude consideration of questions of law.

14. FAIR HEARING AND GRIEVANCE PROCEDURES:

The Provider agrees to provide for a fair hearing and grievance procedure in conformance with and in conjunction with the Fair Hearing and Grievance Procedures established by administrative rules of the State Department of Human Services and Minnesota Statutes, Section 256.045, which are incorporated by

reference into this Agreement.

15. INDEMNIFICATION

- a. The Provider does hereby agree that it will defend, indemnify, and hold harmless, the Department and the County against any and all liability, loss, damages, costs and expenses which the Department or County may hereafter sustain, incur, or be required to pay.
- b. By reason of any applicant or eligible recipient suffering bodily or personal injury, death, or property loss or damage either while participating in or receiving the care and services to be furnished under this Agreement, or while on premises owned, leased, or operated by the Provider, or while being transported to or from said premises in any vehicle owned, operated, leased, chartered, or otherwise contracted for by the Provider or any officer, agent, or employee thereof; or
- c. By reason of any applicant or eligible recipient causing injury to, or damage to, the property of another person, during any time when the Provider or any officer, agent, or employee thereof has undertaken or is furnishing the care and services called for under this Agreement; or
- d. By reason of any negligent act or omission or intentional act of the Provider, its agents, officers, or employees which causes bodily injury, death, personal injury, property loss, or damage to another during the performance of purchased services under this Agreement.
- e. This indemnity provision shall survive the termination or expiration of this Agreement. The County does not intend to waive any immunity it may have by statute or common law.

16. INSURANCE:

- a. In order to protect itself and the County under the indemnity provisions set forth above, Provider shall, at the Provider's expense, procure and maintain the following insurance coverage at all times during the term of the Agreement:
 - A general liability insurance policy in the amount of \$1,500,000 for bodily injury or property damage to any one person and for total injuries or damages arising from any one incident. The County must be named an additional insured and shall be sent a certificate of insurance on an annual basis.
 - Worker's compensation insurance per Minnesota Statute, section 176.181.
 - Professional liability insurance policy for licensed professionals with a minimum aggregate amount of \$1,000,000.
- b. The Provider at all times is solely responsible to maintain in force the insurance coverage required under this Agreement and shall provide, without demand by County, annual certificates and/or pertinent documentation regarding insurance renewal or termination to Shawn Speed, Administrative Assistant, Aitkin County Health and Human Services, 204 First Street NW, Aitkin, MN 56431. If the certificate is not received by the expiration date, the County shall notify the Provider and the Provider shall have five (5) calendar days to send in the certificate, evidencing no lapse in coverage during the interim.
- c. The County reserves the right to request and obtain all insurance information pertinent to this Agreement, directly from the Provider's insurance agent(s).
- d. Failure by the Provider to maintain insurance coverage as set forth in this Section 16 is a default of this Agreement, which entitles the County, at its sole discretion, to terminate this Agreement immediately.

17. INDEPENDENT CONTRACTOR:

- a. Provider is to be and shall remain an independent contractor with respect to any and all work and/or services performed under this Agreement. It is agreed that nothing herein contained in this Agreement is intended or should be construed in any manner as creating the relationship of co-partners, joint

ventures, or an association with the County and the Provider, nor shall the Provider, its employees, agents, and representatives be considered employees, agents, and representatives of the County.

- b. The Provider represents that it has, or will secure at its own expense, all personnel required in performing services under this Agreement. Any and all personnel of the Provider or other persons, while engaged in the performance of any work or services required by the Provider under this Agreement, shall have no contractual relationship with the County and shall not be considered employees of the County, and any and all claims that may or might arise under the Unemployment Compensation Act or the Workers' Compensation Act of the State of Minnesota on behalf of said personnel arising out of employment or alleged employment including, without limitation, claims of discrimination against the Provider, its officers, agents, contractors, or employees shall in no way be the responsibility of the County. The Provider and its personnel shall neither require nor be entitled to any compensation, rights, or benefits of any kind whatsoever from the County, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Insurance, disability, severance pay and PERA.
- c. Provider shall defend, indemnify, and hold the County, its officers, agents, and employees harmless from any and all such claims irrespective of any determination of any pertinent tribunal, agency, board, commission, or court. Such personnel or other persons shall neither require nor be entitled to any compensation, rights, or benefits of any kind whatsoever from the County, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Insurance, disability, severance pay and PERA.

18. SUBCONTRACTING:

- a. The Provider shall not enter into any subcontract for performance of the services contemplated under this Agreement nor assign any interest in the Agreement without the prior written consent of the County. All subcontracts shall be in writing and shall comply with all County requirements, state requirements, and applicable law. At any time, the County may require a complete listing of all subcontractors and/or copies of subcontracts for the purpose of fulfilling its obligations under the terms of this Agreement. Provider shall be legally responsible for subcontractors' compliance with the terms and conditions of this Agreement and with applicable law. In addition, Provider shall be legally responsible to County for the acts and omissions of any subcontractors and persons both directly or indirectly employed by them and ensure compliance to the subcontract and Minnesota Rules, part 9525.1870, subpart 3.
- b. The Provider must ensure that any and all subcontracts to provide services under this contract must contain the following language:
 - 1) "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 contract. The subcontractor specifically acknowledges and agrees that the Minnesota Department of Human Services has standing to and may take any appropriate relief in law or equity, including but not limited to rescission, damages, or specific performance, of all or any part of the contract. Minnesota Department of Human Services is entitled to and may recover from the Provider 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 contract 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."

19. MODIFICATION OF AGREEMENT:

Any material alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed, and attached to the original of this agreement.

20. TERMINATION:

This agreement may be terminated by either party, with or without cause, upon 30 days written notice to the other party. Cancellation of the agreement by the Agency does not relieve the Provider of duties imposed by court order.

21. MISCELLANEOUS:

The Contractor acknowledges and agrees that the Minnesota Department of Human Services is a third-party beneficiary, and as 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 the County Welfare Board and the Contractor. The Contractor specifically acknowledges that the County Welfare Board and the Minnesota Department of Human Services are entitled to and may recover from the Contractor reasonable attorney's fees and 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 of 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.

22. ENTIRE AGREEMENT:

It is understood and agreed that the entire contract of the parties is contained herein and this contract supersedes all oral agreements and negotiations between the parties relating to the subject matter thereof.

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby.

COUNTY OF AITKIN
STATE OF MINNESOTA

BY: _____
Cynthia Bennett, Director
Aitkin County Health & Human Services

DATED: _____

BY: _____
Chairperson
Aitkin County Board of Commissioners

DATED: _____

APPROVED AS TO FORM AND EXECUTION:

BY: _____
Jim Ratz
Aitkin County Attorney

DATED: _____

LUTHERAN SOCIAL SERVICES

BY: _____
Jeri Schoonover
Chief Service Officer

DATED: _____