

AMENDED CONTRACT FOR PROFESSIONAL SERVICES

WHEREAS, the City of Broken Arrow a municipal corporation “**CITY**” wishes to respond to the needs of victims of violence within the **CITY**, outside of regular business hours; and

WHEREAS, Family & Children’s Services “**F&CS**” provides emergency counseling services to victims of violence outside of regular business hours; and

WHEREAS, **F&CS** has developed a volunteer program, a Violence Response Program, called Victims of Crime Advocate, VOCA, which offers emergency face-to-face counseling services;

WHEREAS, this amended Contract is made and entered into this 1st day of July, 2015 by and between **F&CS**, an Oklahoma non-profit corporation hereinafter referred to as **F&CS**, and the City of Broken Arrow a municipal corporation, hereinafter referred to as the “**CITY**.”

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein and the mutual benefits that will accrue, the parties agree as follows:

SECTION 1: TERM

The term of this amended Contract shall be for a period of one (1) year commencing July 1, 2015 and upon funding and shall terminate automatically at midnight June 30, 2016. This amended Contract shall not automatically renew.

SECTION 2: F&CS RESPONSIBILITIES

F&CS shall employ an individual with at least a Bachelor degree in a social science or 5 years plus social service case management experience (“**ADVOCATE**”) to provide Family & Children’s Services in accordance with the terms of this amended Contract. It is expressly understood that the remuneration paid by **CITY** to **F&CS** is compensation for these professional services.

Said **ADVOCATE** shall provide needs assessments with appropriate referrals and any associated administrative services for forty (40) hours per week, as determined by mutual agreement with the **CITY**, afternoons and evenings, Monday through Friday, weekends (should the need arise), and/or **CITY** Holidays, and shall act as a liaison between the **F&CS**, its **Volunteers on Call Advocate** volunteer program, and the **CITY**.

F&CS, through its **ADVOCATE**, shall implement and coordinate a **Volunteer on Call Advocates Program within** the **CITY** to provide services to victims of violence “after hours,” that is, evenings and nights Monday through Friday, weekends, and/or **CITY** Holidays. **F&CS** shall provide services through its **ADVOCATE** and/or **VOCA** volunteers, who shall respond to the victims’ homes or other specified locations upon the request of the **CITY**.

F&CS, on behalf of its **ADVOCATE** and its volunteers, acknowledges and accepts that there are inherent dangers in providing services in violence situations and that the **CITY** cannot and does not guarantee the safety of **F&CS**, its **ADVOCATE** or its volunteers. **F&CS**, its **ADVOCATE** and its volunteers shall retain the right to refuse or to terminate any assignment when, in the sole judgment of **F&CS**, its **ADVOCATE**, or its volunteers, the assignment places **F&CS**, its **ADVOCATE**, or its volunteers in danger.

SECTION 3: INDEPENDENT CONTRACTOR STATUS

It is expressly understood that **F&CS** is retained by **CITY** to provide **Psychological First Aid (PFA)** intervention services on behalf of the community of Broken Arrow and that **F&CS** is an independent contractor of the **CITY** for the purposes of carrying out its obligations under this amended contract.

All persons volunteering or working for **F&CS** under this amended Contract shall be volunteers or employees of **F&CS** and shall not be considered volunteers or employees of the **CITY**. This amended Contract shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association between the **CITY** and **F&CS** nor any officer, employee, volunteer, contractor or representative of **F&CS**. No joint employment is created by this amended Contract, and each **F&CS** volunteer and employee shall be so. The hiring, discharge, training, supervision and management of all volunteers and employees of **F&CS**, including, but not limited to the determination of the numbers and qualifications of volunteers or employees required to perform the duties of **F&CS** under this amended Contract, the establishment and administration of wage scales, rates of compensation, provision of benefits including but not limited to Workers Compensation and retirement, conditions of employment and job descriptions shall be the right and obligation of **F&CS**.

SECTION 4: RECORDS AND ACTIVITY REPORTS

F&CS shall submit a monthly activity report to the **CITY** that accurately states the progress made in implementing the terms, conditions and scope of work under this amended contract. These reports shall include a statistical summary of the number of calls for service received and their disposition. **ADVOCATE** shall submit this report no later than the 15th day of the month following each month services are provided.

The Federal funding agency, the U.S. Comptroller General, or any of their duly authorized representatives shall have access to any records pertinent to the Victim of Crimes Act, "VOCA" grant for the purpose of audit and examination.

SECTION 5: BAPD RESPONSIBILITIES

The **CITY** has been granted Thirty-Five Thousand Eight Hundred Sixty Two Dollars and no cents (\$35,862) by **VOCA**, and shall utilize these funds to compensate **F&CS** for the services described in this amended Contract. In addition to the **VOCA** funds the **CITY** will contribute Six Thousand Six Hundred and Thirty Four Dollars and no cents (\$6,634.00), from the Police Operational Budget toward the funding of this amended contract. These monies are to be utilized for the payment of the salary and benefits for the full-time position of **ADVOCATE**. The **CITY** shall remit One-twelfth (1/12) of invoiced amount within 15 calendar days or the second (2nd) City Council meeting after receipt of **ADVOCATE**'s monthly report and invoice.

No additional fees shall be paid or expenses reimbursed by the **CITY** under this amended contract for any reason, including but not limited to travel or incidental expenses of **F&CS**, the **ADVOCATE** or their volunteers. The **CITY** shall provide office space for the **ADVOCATE**.

SECTION 6: NONDISCRIMINATION

F&CS agrees that no person shall be excluded from participation in or denied the benefit of the services described herein on the grounds of race, creed, color, age, sex, handicap, or national origin. **F&CS** agrees that in carrying out the terms of this amended contract, no otherwise qualified person shall be subjected to discrimination on the grounds of disability.

SECTION 7: INSURANCE AND INDEMNIFICATION

As partial consideration for this amended Contract, **F&CS** agrees to indemnify, defend (at **CITY'S** option), and hold harmless the **CITY**, its employees, officials, agents, representatives and volunteers from and against any and all liabilities, damages, injuries (including death), property damage (including loss of use), claims, liens, judgments, costs, expenses, suits, actions, or proceedings and reasonable attorney's fees, and actual damages of any kind or nature, arising out of or in connection with **any aspect of the acts, omissions, negligence or willful misconduct of F&CS, its employees, volunteers, agents, officers, contractors or subcontractors, or F&CS'S performance or failure to perform under the terms and conditions of this amended Contract.** Such indemnification, hold harmless and defense obligation shall exclude only such liability actions as arise directly out of the sole negligence or willful misconduct of the **CITY** and in accordance with the terms, conditions and exceptions contained in the Governmental Tort Claims Act. The indemnification and defense obligations set forth herein shall survive the termination of this amended Contract.

Without limiting the **CITY'S** right to indemnification, **F&CS** shall obtain insurance in no less than or in terms more restrictive than the following: **Comprehensive General Liability Insurance** covering all premises and operations. The applicable limit of liability shall not be less than One Million Dollars (\$1,000,000.00) per claimant, One Million Dollars (\$1,000,000.00) annual aggregate; **Worker's Compensation Insurance Coverage** in compliance with the Worker's Compensation Laws of Oklahoma; and **Comprehensive Automobile Liability Insurance** applicable to all owned, hired and non-owned vehicles in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence.

F&CS shall include the **CITY**, its officials, representatives, agents and employees as Additional Insured on all required insurance policies, and shall maintain the Insurance set forth in this schedule with insurers that carry a Best's "A" or equivalent rating and which are licensed and admitted to write insurance business in Oklahoma. Prior to commencing any activities under this amended Contract, **F&CS** shall deliver to the **CITY** all insurance certificates confirming the existence of the insurance required by this amended Contract. Failure of **F&CS** to obtain and maintain any required insurance shall not relieve **F&CS** from any liability hereunder. Such coverage shall not be canceled or materially changed without giving the **CITY** at least thirty (30) days prior written notification thereof.

F&CS shall provide the **CITY** with prompt written notice of any serious injuries (serious injuries include all injuries which require medical treatment), written or oral complaints received, and actual or anticipated disputes with or claims by any individual.

SECTION 8: LAWS AND CONSTRUCTION

The parties agree to conduct their business under the terms of this amended contract in such a manner that it does not violate any federal, state, or local laws or regulations. This amended contract shall be construed in accordance with the laws of the State of Oklahoma. Exclusive Original Jurisdiction and venue for any action relating to this amended Contract shall be solely in the Tulsa County District Court of Oklahoma.

Captions and heading in this amended contract are for reference and identification purposes only and in no way alter, modify, amend, limit or restrict the contractual obligations of the parties. This amended Contract constitutes the entire understanding between the parties, and supersedes all proposals and all other communications with respect to this amended Contract.

If any provision of this amended Contract shall be held invalid, such invalidity shall not affect the other provisions hereof, and to this extent, the provisions of this amended Contract are intended to be and shall be deemed severable. The parties shall agree, if reasonably practicable, upon provisions that are equivalent to replace any provision that is determined to be invalid.

SECTION 9: TERMINATION OF CONTRACT

It shall be a cause for termination if the **VOCA** grant is discontinued. The **CITY** shall not be required to pay **F&CS** beyond the monies made available through this grant.

Upon the occurrence of any one or more of the following events of default hereinafter described, this amended Contract shall be subject to termination: It shall be a default and cause for termination if either party fails to keep, observe or perform any promises, covenants, conditions, agreements, terms, or provisions of this amended contract and such default continues for a period of thirty (30) days after written notice.

The rights and remedies provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this amended Contract. Any waiver of any breach of any one or more of the covenants, conditions, terms and agreements herein contained shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term or agreement herein contained, nor shall failure to require exact, full, and complete compliance with any of the covenants, conditions, terms or agreements herein contained be construed as in any manner changing the terms of this amended Contract or estopping the **CITY** from enforcing the full provisions thereof.

SECTION 10: NOTICES

Any notice required or permitted to be given by the terms of this amended Contract or by law shall be in writing and may be given either by personal delivery or by depositing said notice in the U.S. Mail, certified with return receipt requested, postage prepaid, addressed to the other party's address. Service of said notice or demand shall be complete upon receipt of said notice or demand. Notices and communication shall be sent to the following addresses:

Gail Lapidus CEO, F&CS
650 S. Peoria
Tulsa, OK 74120

SECTION 11: ASSIGNMENT

Neither party shall assign this amended contract or any interest herein without the express written consent of the other party.

SECTION 12: AMENDMENTS

This document may be modified only by further written agreement between the parties. Any such modification shall not be effective unless and until executed by the parties.

IN WITNESS WHEREOF, the parties have hereunto set their hand in counterparts, each of which will constitute an original, on the day and year first above written.

Approved as to form

The City of Broken Arrow

Lesli Myers
Assistant City Attorney

Russell Gale, Acting City Manager

Date:

Attest:

Family & Children's Services

City Clerk (Seal)

By: Gail Lapidus
Gail Lapidus, Executive Director

VERIFICATION

State of Oklahoma)
)ss.
County of Tulsa)

Before me, a Notary Public, on this ___day of _____, personally appeared _____, known to me to be the identical person who executed the foregoing instrument, and acknowledged that she executed the same as her voluntary act.

My Commission Expires:

Notary Public