

## **CONTRACT FOR PROFESSIONAL SERVICES**

WHEREAS, the City of Broken Arrow an Oklahoma Municipal Corporation ("CITY") wishes to respond to the needs of victims of violence within the City; and

WHEREAS, Family & Children's Services ("F&CS") provides emergency counseling services to victims of violence; 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 Contract is made and entered into this 1<sup>st</sup> day of October, 2020 by and between F&CS, an Oklahoma non-profit corporation hereinafter and 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 Contract shall be for a period of twelve (12) months commencing October, 1, 2020 and upon funding and shall terminate automatically at midnight September 30, 2021, dependent upon appropriation in the Fiscal Year 2021 and 2022 Budgets. This 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 emergency counseling services to victims of violence in the City. It is expressly understood that the remuneration paid by CITY to F&CS is compensation for these professional services. F&CS shall invoice the CITY for One-Twelfth (1/12) of contracted amount within 8 calendar days of the beginning of each month.

Said ADVOCATE shall provide needs assessments with appropriate referrals and any associated administrative services for forty (40) hours per week, Monday through Friday during normal business hours, evening and 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 (PTA) intervention services on behalf of the community of the City and that F&CS is an independent contractor of the CITY for the purposes of carrying out its obligations under this contract.

All persons volunteering or working for F&CS under this Contract shall be volunteers or employees of F&CS and shall not be considered volunteers or employees of the CITY. This 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 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 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 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 Thousand Dollars and no cents (\$30,000.00) by the Oklahoma District Attorneys Council for VOCA, and shall utilize these funds to compensate F&CS for the services described in this contract. In addition to these funds the CITY will contribute Eighteen Thousand Dollars and no cents (\$18,000.00), from the Police Operational Budget toward the funding of this contract for a combined amount of Forty-Eight Thousand Dollars and no cents (\$48,000.00). The CITY will remit payment to F&CS within 15 calendar days or the second (2<sup>nd</sup>) City Council meeting after receipt of ADVOCATE's monthly report and F&CS monthly invoice.

No additional fees shall be paid or expenses reimbursed by the CITY under this 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 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 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 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 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 Contract, F&CS shall deliver to the CITY all insurance certificates confirming the existence of the insurance required by this 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 contract in such a manner that it does not violate any federal, state, or local laws or regulations. This 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 Contract shall be solely in the Tulsa County District Court of Oklahoma.

Captions and headings in this 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 Contract constitutes the entire understanding between the parties, and supersedes all proposals and all other communications with respect to this Contract.

If any provision of this Contract shall be held invalid, such invalidity shall not affect the other provisions hereof, and to this extent, the provisions of this 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 of the contract 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 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 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 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 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 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

Captain Beth Shaw, Office of Professional Standards  
1101 N. 6<sup>th</sup> St.  
Broken Arrow, OK 74012

#### **SECTION 11: ASSIGNMENT**

Neither party shall assign this 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

  
Assistant City Attorney

The City of Broken Arrow

\_\_\_\_\_  
Michael Spurgeon, City Manager

Date:

\_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk (Seal)

Family & Children's Services

By:   
Gail Lapidus, Executive Director

#### VERIFICATION

State of Oklahoma     )  
                                      )ss.  
County of Tulsa        )

Before me, a Notary Public, on this 9 day of October, personally appeared Gail Lapidus, 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:

10/15/2023

  
Notary Public

