



Robert W. Wilson
County Administrator

Telephone: 701-241-5770
wilsonro@casscountynd.gov

MEMO

TO: County Commission
FROM: Robert W. Wilson
Date: August 1, 2024
Subject: Agreement: General Primary Medical Care for Jail Inmates

Last year Fargo Cass Public Health (FCPH) informed Cass County they intended to discontinue providing jail nursing services in the Cass County Jail. FCPH and the County have since worked together to explore options and transition to a different delivery method for jail nursing care. This effort has included the Sheriff, Administration, Human Resources, State's Attorney, Information Technology and Finance Offices.

At the Commission's July 1st meeting the Board approved transitioning existing jail nursing staff from FCPH (City of Fargo) employment to Cass County employment effective September 2, 2024. In addition to the employment transition there are other operational functions FCPH previously provided that must be accounted for.

In March I briefed the Board on options for providing services that include electronic medical records, pharmacy services and medical director services. Medical Director services have previously been provided by Family Healthcare (FHC) in Fargo. At the March briefing there was a discussion of deep prescription drug discounts and increased medical records efficiency that could be realized if the County expanded its existing contract with FHC to include medical records and pharmacy services.

At the Commission meeting on August 5th. I am pleased to present for the Board's consideration the attached agreement with Family Healthcare for general primary medical care for jail inmates. This agreement has been reviewed by the previously mentioned County departments. Significant features of the agreement include:

- Initial two-year term with three optional one-year extensions effective January 1, 2025
- Eight-hours per week onsite medical director services with additional 24/7 availability
- Agreement that two additional RN's will be hired at the beginning of the contract and two additional RN's will be hired when the new housing unit becomes operational
- Compensation: \$15,000/mo. for on-site medical provider
- Compensation: nursing supervision – 10% of correctional nursing staff gross compensation

Please note I was asked to provide a table included in the March Commission briefing that describes the potential pharmacy savings available by partnering with Family Healthcare.

SUGGESTED MOTION: Authorize the Chair to sign Service Contract with Family Healthcare Center for General Primary Care for Jail Inmates.



CONTRACT APPROVAL

REQUIRED BY DEPARTMENT:

DEPARTMENT: Administration DATE OF REQUEST: 08-01-2024

COMPANY REQUESTING CONTRACT: Family Healthcare Center

BRIEF PROJECT DESCRIPTION: Service contract for medical services at the Jail

NEW CONTRACT OR CONTRACT RENEWAL

REQUIRED BY STATE'S ATTORNEY OFFICE:

STATE'S ATTORNEY SIGNATURE: *Martin Aarvorn* DATE 8/1/2024

STATE'S ATTORNEY COMMENTS:

Approved as to form.

SERVICE CONTRACT

CASS COUNTY JAIL

Cass County, North Dakota

THIS AGREEMENT is entered into the ____ day of _____, 2024,
by and between:

**CASS COUNTY, NORTH DAKOTA
CASS COUNTY SHERIFF'S OFFICE**

211 9th Street South
Fargo, North Dakota 58103
(hereinafter, "CCSO")

and

FAMILY HEALTHCARE CENTER
a North Dakota nonprofit corporation

301 Northern Pacific Avenue
Fargo, North Dakota 58102
(hereinafter, "FHC")

RECITATIONS:

- A. CCSO operates an incarceration facility located at 450 34th St S, Fargo, ND 58103 (the "Jail").
- B. The Jail property is undergoing an expansion which will considerably increase the maximum capacity of the Jail from 348 to 544 inmates. It is anticipated the addition to the Jail will be completed sometime during the months of April through July of 2025.
- C. FHC is a nonprofit Federally Qualified Health Center (FQHC) with a history of providing quality medical, dental, behavior health and optometric care to individuals, regardless of age, nationality or ability to pay. It is important to FHC that it maintain its status as an FQHC and not jeopardize that status by any provision of this Agreement.
- D. CCSO is seeking a collaboration with a provider of quality general primary medical care to provide general primary medical care for the inmates in the Jail.
- E. CCSO and FHC desire to accomplish the following objectives:
 - E.1. Retaining nursing staff, particularly Correctional Nurses, who currently work at the Jail, including Correctional Nursing staff who were employed through

Fargo Cass Public Health and are to be employed by Cass County, North Dakota.

- E.2. Introducing and using an Electronic Medical Record (“EMR”) system presently using Epic (subject to the availability of Epic), which is a recognized industry leading EMR. The EMR will be integrated into the clinical environment at the Jail, with the desired result being that it seamlessly interfaces with all FHC medical histories, as well as records with the largest integrated healthcare systems in the metropolitan region, specifically Sanford Health and Essentia Health.
- E.3. Savings on pharmacy expenses using FHC’s 340B pharmacy services with the pricing advantages favorable in its use. This is subject to change if applicable regulations change or pharmaceutical companies limit pricing advantages.
- E.4. The providing of on-site and on-call (telephone call only) medical providers to continue to provide medical services for inmates through the scheduling of an on-site general primary medical care provider and on-call services by phone provided by FHC on a 24 hour, 7 days per week basis. This may include referral to an emergency room or a clinic/hospital facility.
- F. FHC has been providing services to CCSO through a Purchased Service Agreement dated December of 2015 (the “2015 Agreement”). This Agreement will replace the 2015 Agreement in its entirety.
- G. The Correctional Nursing staff working at the Jail is made up of nurses presently employed by Fargo Cass Public Health (FCPH). The Correctional Nursing staff will continue to be employed by Cass County to provide on-site services.
- H. The parties are setting forth their agreement in this document.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements, the adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. **Term.** This Agreement shall be in effect for an initial term of two (2) years, commencing _____. After the initial 2-year term, this contract will renew automatically for three (3) successive additional one (1) year terms, with each renewal term commencing on the anniversary date. Either party may terminate the contract at the end of a term by giving at least one hundred twenty (120) days written notice to the other party prior to the expiration of the then-current lease term. For the renewal terms after the initial 2-year term, there will be a review of fees to be paid to FHC with each renewal. The determination on whether the parties can agree on fees to be paid to FHC in a new term will be made at least 120 days prior to the expiration of the existing term.

Section 2. **Health Agency.**

Section 2.1. **Medical Director.** FHC will supply a Medical Director to serve in the capacity of Health Authority/Medical Director for the Jail. The Chief Medical Officer for FHC will be the Medical Director for the Jail. At the time of entering into this Agreement, the Medical Director is Dr. Arden Beachy, who is also the Chief Medical Officer of FHC.

Section 2.2. **Medical Provider.** FHC will supply a medical provider to provide on-site services at the Jail two (2) half days per week, for a total of eight (8) hours per week. A Correctional Nurse will be assigned to assist the medical provider and maintain processes, as was being done under the 2015 Agreement. There will be an on-call medical provider furnished by FHC on a 24-hour, 7 days per week availability for contact when there is not a medical provider on site. The medical provider may be a medical doctor, a nurse practitioner, a physician assistant or a certified nurse midwife. Human resources for FHC will verify the credentials of the medical provider and the nursing staff.

Section 3. **Epic System.** FHC will coordinate installation of the Epic software system (or its replacement) as the electronic medical record (EMR) for use with inmates. This same Epic system will be used by all staff of FHC and all Correctional Nurses. FHC will own the patient records entered into the Epic system. FHC's IT department will support installation of Epic as HIPAA-compliant software. This will be done in accordance with the contract between FHC and Sanford Health. Only FHC staff and those contracted with FHC, including Correctional Nurses, will have access to this program. Patient records must be owned by FHC to meet the requirements of being able to have access to the 340B drug program. Use of the Epic system will be subject to the availability of the Epic system and support of the Epic system.

Section 4. **Computer System Setup.** CCSO will be paying to FHC the sum of \$45,000 which will be used by FHC to set up the computer equipment; to deal with IT issues and to maintain the computer system serving FHC personnel and the Correctional Nursing staff while working with FHC. FHC will conduct quality checks to ensure proper access and safeguards are in place to maintain privacy and adhere to applicable laws. If additional funds for computer equipment and IT support become necessary over time, FHC will provide related information and requests to CCSO. CCSO and FHC will work in good faith on an agreement regarding computer equipment and IT matters that may arise in the future, if necessary. At the time of entering into this Agreement it is not anticipated there will be any additional costs regarding the computer system during the initial term of this Agreement.

Section 5. **Correctional Nursing Staff.** Cass County will employ the Correctional Nursing staff previously provided through Fargo Cass Public Health. The following will apply:

Section 5.1. Correctional Nursing staff will be employed by Cass County and will receive the employment benefits as are received by Cass County employees.

Section 5.2. Correctional Nursing staff will provide services at the Jail. FHC nursing staff will not be cross-trained to act as Correctional Nursing staff.

Section 5.3. Correctional Nursing staff will use the current EMR system, which will be EPIC, at the start of this contract term.

Section 5.4. Correctional Nursing staff will be hired by Cass County and trained by CCSO Nursing Manager.

Section 5.5. FHC will identify any increased needs for Correctional Nursing staff in coordination with the Correctional Nursing Manager. Due to current understaffing and a desire to expand hours, two RNs will be hired at the commencement of this contract. At the time of the Jail expansion, two additional nurses are to be hired. After the stabilization of the inmate population following the Jail expansion, a hiring formula will be utilized to add additional nurses. As the population rises from 384 inmates, each increase of 32 inmates for thirty (30) days would generally result in an increase of one Correctional Nurse. Changes to the inmate population will be discussed with the Correctional Nursing Manager to make staffing adjustments as needed.

Section 5.6. The Cass County Human Resources Department will post the open Correctional Nurse positions, recruit Correctional Nurses and onboard the new employees with FHC involvement in the hiring decision process.

Section 5.7. FHC will include in its monthly fee the cost of lab coat cleaning for Correctional Nurses, uniform reimbursement for Correctional Nurses, any required cell phone costs, nursing licensing fees for Correctional Nurses and reasonable conference costs and travels to national correctional conferences by the Correctional Nursing Manager.

Section 5.8. There will be a Correctional Nursing Manager that will oversee the Correctional Nursing staff. The Correctional Nursing Manager is an employee of CCSO.

Section 5.9. FHC will provide the clinical operations management. CCSO Jail policies and procedures will be followed. FHC Clinical Policies will be followed as applicable.

Section 6. **Medical Supplies**. No medical supplies are being provided by FHC. CCSO will furnish medical supplies.

Section 7. **Pharmacy Usage**. FHC currently has access to the 340B drug program based on the Jail currently being listed as part of FHC's scope of project with HRSA. This program results in reduced prices for many medications. This program

requires that nurses and providers document usage of the 340B program using an EMR system. Prescription fulfillment will be provided by the South Fargo pharmacy of FHC, or such other FHC pharmacy as FHC selects. Prescriptions timely ordered will be delivered on a daily basis. The pharmacy dispensing will be available Monday through Friday between 9:00 a.m. and 5:00 p.m. Each medication prescription will be charged a fee by FHC to CCSO for dispensing of the prescription. The fee is \$20 per prescription. The cost of delivering the prescription to the Jail is included in the dispensing fee. FHC South Fargo Pharmacy, or other FHC designated pharmacy, will bill CCSO monthly for the cost of prescriptions, including the dispensing fees. All costs will be reviewed annually. Payment for these prescriptions and dispensing fees will be due within thirty (30) days of the date of the invoice to CCSO. Any amount not paid when due will bear interest at the rate of nine percent (9%) per annum (0.75% per month) or the highest rate allowed by law, whichever is less.

Section 8. **Provider Compensation.** FHC will receive payment of \$15,000.00 per month for its on-site medical provider services of eight (8) hours per week and the availability of on-call by phone medical providers on a 24/7 basis. If additional time is requested by CCSO or by FHC, it will be in 4-hour per week increments at an additional cost of \$7,500.00 per month per increment. This amount will be billed monthly to CCSO and must be paid within thirty (30) days of the billing or it will bear interest at the rate of nine percent (9%) per annum (0.75% per month) or the highest rate allowed by law, whichever is less. The fee structure for FHC is subject to adjustment for each year of the renewal terms.

Section 9. **Clinical Operations Management.** FHC will provide nursing supervision services, including supervision of Correctional Nurses and medical administrative support services. All medical administrative support services will be provided under the supervision of FHC. The cost for these services is an amount equal to ten percent (10%) of the Correctional Nursing staff gross compensation (without reduction for any benefits not presently taxed). This amount will be billed monthly. Payment must be made within thirty (30) days of billing or the amount will bear interest at the rate of nine percent (9%) per annum (0.75% per month) or the highest rate allowed by law, whichever is less. At least annually the cost of wages for staff, with cost information provided from CCSO, and the appropriate fee to FHC will be reviewed. The fee will never be less than ten percent (10%) of the Correctional Nursing staff gross compensation (without reduction for any benefits not presently taxed). Management support will be provided by FHC.

Section 10. **Costs to Cass County.** A summary of services and payments due has been attached as Schedule 11. The fees due to FHC are subject to review and adjustment for each year, commencing after the first 2-year term.

The computation of the fee due FHC for clinical operations management will be based upon the total compensation (gross wages without reduction for any benefits not presently taxed) to Correctional Nurses which would be the total cost of compensation for Correctional Nurses to CCSO. This initially will be based on the number used in the budget for Correctional Nursing staff by Cass County. Within sixty (60) days of the end

of the fiscal year of CCSO, the actual amount of gross compensation paid to or for Correctional Nurses during the contract year will be computed, with CCSO paying any underpayment amount to FHC and FHC paying any overpayment amount to CCSO. If the fiscal year of CCSO and the contract year of this contract do not match, the average monthly total compensation (gross wages without reduction for any benefits not presently taxed) for Correctional Nurses during the most recent CCSO fiscal year will be used to compute the monthly fee due FHC.

Section 11. **Liability Coverage.** At the present, FHC maintains its coverage for claims related to personal injury and/or death resulting from the performance of medical, surgical, dental or related functions through the Federal Tort Claim Act. This coverage does not apply to the Correctional Nursing staff, as they are not employees of FHC. To the extent the liability coverage of FHC is not available to the Correctional Nursing staff, CCSO will be responsible for obtaining professional liability coverage for the Correctional Nursing staff to insure against any and all claims, responsibility, liability, causes of action and/or damages (“Claims”) related in any manner to actions or failures to act of Correctional Nursing staff or CCSO. FHC and CCSO will attempt to carry a minimum of \$5,000,000 per claim and \$10,000,000 in the aggregate as liability insurance limits, to the extent possible, and will share this information with the other party. The insurance carried by a party will also cover reasonable attorneys’ fees and costs of that party. If this liability insurance requirement results in additional expense for either FHC or CCSO, it will be paid by CCSO.

Section 12. **Workers’ Compensation (WSI).** FHC will be covering FHC employees through WSI for workers’ compensation type claims. CCSO will be covering Correctional Nurses and CCSO through WSI for workers’ compensation type claims. If a workers’ compensation type claim is made against CCSO by employees of FHC, or if a workers’ compensation type claim is made against FHC related to Correctional Nurses or other employees of CCSO, the party that is obligated to provide the workers’ compensation coverage (CCSO for Correctional Nurses and CCSO staff and FHC for FHC staff) has the obligation to indemnify, defend and hold harmless the other party from workers’ compensation type claims made by an employee of that party against the other party to this Agreement. This will include attorneys’ fees and costs incurred defending against a claim. This will apply if insurance coverage or WSI coverage is not available to cover the asserted claim and the cost of defense of the claim. If insurance coverage is available, neither CCSO nor FHC will pursue a claim against the other.

Section 13. **HIPAA Compliance.** Each party will be responsible for all actions of that party being in compliance with HIPAA regulations. Part of this is specifying that FHC will own all patient (inmate) medical records. Such information may not be accessed by anyone, including an employee of Cass County or FHC, except in accordance with the guidelines and requirements of HIPAA and of FHC.

Section 14. **Dispute Resolution.** If any dispute develops among the parties to this Agreement, each party agrees it will, in good faith, attempt to negotiate a resolution. If the parties are not successful in negotiating a resolution, they agree they will participate in good faith in mediation with a neutral third-party mediator in Fargo, North Dakota. If

mediation is not successful, the parties agree to submit this matter to State District Court, East Central Judicial District, Cass County, North Dakota, which will be the exclusive jurisdiction and venue. Any judgment may be enforced by any court of competent jurisdiction.

Section 15. **Construction.**

Section 15.1. It is agreed between the parties that time is of the essence in each provision of this Agreement.

Section 15.2. This Agreement represents the entire agreement between the parties regarding the subject matter herein and may be amended only by a writing signed by the parties.

Section 15.3. Failure to exercise any right or remedy available under this Agreement at any time shall not be considered to be a waiver or release of the right to exercise that right or remedy.

Section 15.4. This Agreement and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by the laws of the State of North Dakota.

Section 15.5. If any part of this Agreement shall be adjudged invalid, the remainder shall not be invalidated. Any part of any Section found to be invalid shall not invalidate the remaining part of said Section, and the invalid Section may be reformed to be valid and enforceable to the extent allowed by law.

Section 15.6. If and to the extent that applicable law confers any rights or imposes any duties inconsistent with or in addition to any other provisions of this Agreement, the affected Section shall be considered amended to conform thereto.

Section 15.7. As used herein, "include," "includes" and "including" are deemed to be followed by "without limitation" whether or not they are in fact followed by such words or words of like import; "writing," "written" and comparable terms refer to printing, typing, generating electronically and other means of reproducing words in a visible form; references to any person are also to that person's successors and permitted assigns; "hereof," "herein," "hereunder" and comparable terms refer to the entirety hereof and not to any particular article, section or other subdivision hereof or attachment hereto; references to any gender include references to the masculine or feminine as the context requires; references to the plural include the singular and vice versa; and references to this Agreement or other documents are as amended, modified or supplemented from time to time.

Section 15.8. Headings and titles of Sections are for convenience only. The wording of each Section shall govern over its heading.

Section 15.9. This Agreement will be binding on the parties, their administrators, successors and assigns.

Section 15.10. This Agreement may be executed by the parties in separate parts with the signature of each party to a copy of the Agreement, even if not the same copy, constituting the creation of a binding contract between the parties.

Section 15.11. The signing of any documents and the transmission of the signature by facsimile machine or electronically, such as by PDF or by other electronic means, will be considered to be sufficient execution, and each party agrees that the other party may rely on their signature, whether an original or reproduced by facsimile machine, photocopier or electronically.

Section 15.12. Exercise of any right will not be considered to be an election of remedy or the exclusive remedy of a party.

Section 15.13. This Agreement will be interpreted in a fair and neutral manner without favoring one party over the other. No provision of this Agreement will be interpreted for or against any party because the provision was drafted by that party or its legal representative.

Section 15.14. All parties hereto have been fully involved in the negotiation and drafting of this Agreement. Accordingly, the parties hereto agree that any rule of construction of contracts resolving any ambiguities against the drafting party will be inapplicable to this Agreement.

Section 15.15. The parties agree to engage in fair dealing with each other at all times, and agree to deal with each other only in good faith.

Section 15.16. The obligations under this Agreement will remain in effect regardless of additional documents signed by the parties. These obligations will not be considered merged into additional or later documents, except by express written agreement that a merger is occurring.

Section 15.17. The Recitations to this Agreement shall be construed as a material and enforceable part of this Agreement for all purposes, and shall in no event be considered precatory language or mere surplus.

Section 15.18. All Exhibits and Schedules attached hereto are incorporated herein by reference and made a part of this Agreement as if fully set forth herein.

Section 15.19. There are no third-party beneficiaries to this Agreement. This Agreement is intended only to benefit the parties to this Agreement.

Section 15.20. Neither termination nor expiration will release any party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration of this Agreement.

Section 16. **Recitations**. The Recitations previously set forth are incorporated into this Agreement.

(Signature Pages to Follow)

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

Dated: _____.

CASS COUNTY, NORTH DAKOTA

By:
Its:

By:
Its:

Dated: _____.

FAMILY HEALTHCARE CENTER
a North Dakota nonprofit corporation

By: Margaret Asheim
Its: Interim CEO and Acting CFO

SCHEDULE 11

SERVICES AND PAYMENTS

	Start-up Costs	Pre-expansion annualized costs	Post-expansion annualized costs
Paid by County to FHC or FHC Pharmacy			
Information Technology (IT) Equipment replacement & network setup	\$45,000	Anticipated to be \$0.00	Anticipated to be \$0.00
Initial Epic (EMR) training (2 sessions)	\$3,000		
Clinical Operations Management at 10% of Correctional Nursing staff gross compensation (true-up at year end)*		Est. \$70,000 annually, paid 1/12 th each month (based on the addition of 2 RNs to the current staffing), subject to review	Est. \$82,500 (based on the addition of 2 RNs and 2 LPNs to the current staffing), subject to review
Phone & Internet (\$550 per month)		\$6,600	\$6,600
Epic (EMR) (\$1,200 per month)		\$14,400	\$14,400
Provider onsite & on-call services (details below)		\$180,000 annually, to be paid 1/12 th in advance each month	\$270,000
Prescription (courier service included) (details below)		Cost will vary depending on the usage. There is a \$20 dispense fee per prescription.	Cost will vary depending on usage. There is a \$20 dispense fee per prescription.
Paid by County to staff and other vendors			
Correctional Nursing staff gross compensation without reduction for any benefits not presently taxed		Annual budgeted amount to be adjusted based on actual gross compensation without reduction for any benefits not presently taxed	Annual budgeted amount to be adjusted based on actual gross compensation without reduction for any benefits not presently taxed
Correctional Nursing staff benefits		Est. \$200,000	Est. \$230,000
Medical supplies		Cost will vary depending on usage	Cost will vary depending on usage
Liability insurance for Correctional Nurses		This will be provided by Cass County at the cost of Cass County	This will be provided by Cass County at the cost of Cass County

* This is subject to additional increase if more services from FHC and/or Correctional Nursing are required based on increasing use of services by inmates.

	2024 Budget (FCPH)	2025 Family Health	2025 Cass	Increase/ (Decrease)	Notes
IT EMR & Equipment	-	45,000	400,000	(355,000)	
EMR Training	-	3,000	3,000	-	
Total 1x Costs	-	48,000	403,000	(355,000)	
Mgmt & Admin	11,520	81,598	15,000	66,598	10% of Nursing Staff Wages
Onsite & Oncall Provider	70,000	180,000	180,000	-	Current contract rate will be updated
	81,520	261,598	195,000	66,598	
Staffing					
Staff	558,056	594,998	594,998	-	
Add'l Nurses x 2		147,319	147,319	-	Additional Staffing recommendation
Add'l Nurses - Jail Pod Exp x 2		73,659	73,659	-	Mid-year hiring upon Jail Pod Exp Completion
Total Salaries	558,056	815,976	815,976	-	
Total Benefits	158,736	220,314	220,314	-	
Total Salary & benefits	716,792	1,036,289	1,036,289	-	
Annual EMR Licensing		14,400	24,000	(9,600)	
Pharmacy (\$727k Actual 2023)	748,997	462,880	771,467	(308,587)	Access to 340B pharmacy pricing
Expenses	14,142	23,150	23,150	-	Increase conference and training budget
Total Contract	763,139	500,430	818,617	(308,587)	
Total Costs	1,561,451	1,798,317	2,049,907	(241,989)	