

Contract Review Permanent Legislative Oversight Committee
Alabama State House --- Montgomery, Alabama 36130

CONTRACT REVIEW REPORT
(Separate review report required for each contract)

Name of State Agency: Department of Corrections

Name of Contractor: CHS AL, LLC., d.b.a. YesCare

205 Powell Place Brentwood TN

Contractor's Physical Street Address (No P.O. Box Accepted) City ST

Is Contractor a Sole Source? YES _____ NO (IF YES, ATTACH LETTER)

Is Contractor organized as an Alabama Entity in Alabama? YES _____ NO

Is Contractor a minority and/or woman-owned business? YES _____ NO

If so, is Contractor certified as such by the State of Alabama? YES _____ NO

Check all that apply: ALDOT _____ ADECA _____ OTHER (Name) _____

Is Contractor Registered with Alabama Secretary of State to do Business as a Corporation in Alabama? YES NO _____

IF LLC, GIVE NAMES OF MEMBERS YesCare Corp.

Is Act 2001-955 Disclosure Form Included with this Contract? YES NO _____

Does Contractor have current member of Legislature or family member of Legislator employed? YES _____ NO

Was a Lobbyist/Consultant used to secure this Contract OR affiliated with this Contractor? YES NO _____

IF YES, GIVE NAME Dax Swatek



Contract Number: C220052195 (See Fiscal Policies & Procedures Manual, Page 5-8)

Contract/Amendment Amount: \$ 1,064,044,666.00 (PUT AMOUNT YOU ARE ASKING FOR TODAY ONLY)

% State Funds: % Federal Funds: _____ % Other Funds: _____ **

**Please Specify Source of Other Funds (Fees, Grants, etc.) _____

Date Contract Effective: April 1, 2023 Date Contract Ends: September 30, 2027

Type Contract: NEW: RENEWAL: _____ AMENDMENT: _____
If Renewal, was it originally Bid? YES _____ NO _____

If AMENDMENT, Complete A through C:

[A] ORIGINAL contract amount \$ _____

[B] Amended total prior to this amendment \$ _____

[C] Amended total after this amendment \$ _____

Was Contract Secured through Bid Process? YES _____ NO Was lowest Bid accepted? YES _____ NO _____

Was Contract Secured through RFP Process? YES NO _____ Date RFP was awarded: June 30, 2022 DEC 2, 2022

Posted to Statewide RFP Database at <http://rfp.alabama.gov/Login.aspx>? YES NO _____

If NO, give a brief explanation as to why not: _____

Summary of Contract Services to be Provided: Vendor will provide comprehensive healthcare to all inmates in the physical custody and control of the ADOC for this contract term

Why Contract Necessary AND why this service cannot be performed by merit employee: There is no merit employee with the skills necessary to perform these services.

I certify that the above information is correct.

John Q. Hamm
Signature of Agency Head

John Q. Hamm, Commissioner
Printed Name of Agency Head

J. Scott King
Signature of Contractor

J. Scott King
Printed Name of Contractor

Agency Contact: Mary-Coleman Roberts Phone: 334-353-3879

HEALTHCARE SERVICES AGREEMENT

THIS AGREEMENT is between the Alabama Department of Corrections (hereinafter referred to as the “ADOC”), and CHS AL, LLC, d/b/a YesCare, (hereinafter referred to as “YesCare”), collectively referred to as the “Parties” is entered into as of the 23rd day of Feb, 2023. Services under this Agreement shall commence on April 1, 2023, and continue in accordance with Section 2.2 of this Agreement.

WITNESSETH:

WHEREAS, the ADOC is charged by law with the responsibility of obtaining and providing reasonably necessary medical and mental health care (referred to collectively as “healthcare”) for inmates within its custody; and

WHEREAS, the ADOC desires to provide healthcare to inmates in its custody and facilities in accordance with applicable law and court orders; and

WHEREAS, the ADOC issued a Request for Proposal (RFP) 2022-04, inclusive of all attachments, referenced policies, and exhibits, dated September 26, 2022 (herein referred to as “RFP”), which is adopted and incorporated as if set forth herein, seeking a qualified vendor to provide comprehensive inmate healthcare services, and

WHEREAS, YesCare is in the business of providing correctional healthcare services and submitted a proposal dated November 1, 2022, to provide such services for the ADOC in response to the RFP, which is adopted and incorporated as if set forth herein, subject to any clarifications or modification set forth below; and

WHEREAS, YesCare was determined to be a qualified vendor and has been selected by the ADOC after thorough review and consideration to provide those services as herein provided.

NOW, THEREFORE, in consideration of the covenants and promises hereinafter made, the parties hereto agree as follows:

SECTION I: INTRODUCTION

1.1 General Engagement. The ADOC hereby contracts with YesCare to provide for the delivery of reasonably necessary healthcare as set forth herein to individuals under the physical custody and control of the ADOC and housed within the Facilities, unless otherwise excluded herein, and YesCare enters into this Agreement according to the terms and provisions hereof.

1.2 Scope of General Services. The services of YesCare will encompass all duties required in the management of a system to deliver comprehensive healthcare services to inmates assigned to the ADOC. YesCare will develop and implement an overall healthcare system for inmates assigned to the following facilities:

ADOC – Major Correctional Facilities

| Facility | Population Capacity | Phone | Mailing Address | |
|------------------------|----------------------------|----------------|---------------------------|-------------------------|
| <u>Bibb</u> | 1746 | (205) 926-5252 | 565 Bibb Lane | Brent, AL 35034 |
| <u>Bullock</u> | 1492 | (334) 738-5625 | P.O. Box 5107 | Union Springs, AL 36089 |
| <u>Donaldson</u> | 1434 | (205) 436-3681 | 100 Warrior Lane | Bessemer, AL 35023 |
| <u>Easterling</u> | 1228 | (334) 397-4471 | 200 Wallace Drive | Clio, AL 36017 |
| <u>Elmore</u> | 1167 | (334) 567-1460 | 3520 Marion Spillway Road | Elmore, AL 36025 |
| <u>Fountain</u> | 1230 | (251) 368-8122 | Fountain 3800 | Atmore, AL 36503 |
| <u>Hamilton</u> | 240 | (205) 921-7453 | 223 Sasser Drive | Hamilton, AL 35570 |
| <u>Holman</u> | 310 | (251) 368-8173 | Holman 3700 | Atmore, AL 36503 |
| <u>Kilby</u> | 1076 | (334) 215-6600 | P.O. Box 150 | Mt. Meigs, AL 36057 |
| <u>Limestone</u> | 2025 | (256) 233-4600 | 28779 Nick Davis Road | Harvest, AL 35749 |
| <u>St. Clair</u> | 961 | (205) 467-6111 | 1000 St. Clair Road | Springville, AL 35146 |
| <u>Staton</u> | 1396 | (334) 567-2221 | 2690 Marion Spillway Road | Elmore, AL 36025 |
| <u>Tutwiler PFW</u> | 685 | (334) 567-4369 | 8966 US Hwy 231 N | Wetumpka, AL 36092 |
| <u>Tutwiler Intake</u> | 50 | | 20 Training Avenue | Wetumpka, AL 36092 |
| <u>Ventress</u> | 1208 | (334) 775-3331 | P.O. Box 767 | Clayton, AL 36016 |

ADOC – Community-Based Facilities – Community Work Centers

| Facility | Population Capacity | Phone | Mailing Address |
|-------------------------|----------------------------|----------------|---|
| <u>Alex City</u> | 199 | (256) 234-7533 | P.O. Drawer 160 Alex City, AL 35010 Birmingham, AL 35234 |
| <u>Birmingham</u> | 215 | (205) 252-2994 | 1216 25th Street N 35234 |
| <u>Camden</u> | 31 | (334) 682-4287 | 1780 Alabama Highway 221 Camden, AL 36726 Childersburg, AL 35044 |
| <u>Childersburg</u> | 392 | (256) 378-3821 | P.O. Box 368 35044 |
| <u>Elba</u> | 160 | (334) 897-5738 | P.O. Box 710 Elba, AL 36323 |
| <u>Frank Lee</u> | 254 | (334) 290-3200 | P.O. Box 220410 Deatsville, AL 36022 |
| <u>Hamilton</u> | 180 | (205) 921-9308 | P.O. Box 280 Hamilton, AL 35570 |
| <u>Loxley</u> | 288 | (251) 964-5044 | P.O. Box 1030 Loxley, AL 36551 Eight Mile, AL 36663 |
| <u>Mobile</u> | 159 | (251) 452-0098 | P.O. Box 13150 36663 Mt. Meigs, AL 36057 |
| <u>Montgomery North</u> | 129 | (334) 215-0756 | P.O. Box 75 36057 |
| <u>Alabama</u> | 488 | (256) 350-0876 | 1401 Highway 20 West Decatur, AL 35601 Montgomery, AL 36110 |
| <u>Red Eagle</u> | 292 | (334) 262-4604 | 1290 Red Eagle Road 36110 |

Private – The Geo Group

| Facility | Phone | Mailing Address |
|--|----------------|---|
| Alabama Therapeutic Education Facility | (205) 669-1187 | 102 Industrial Pkwy Columbiana, AL 35051 |

The above facilities hereinafter will be referred to as “Facilities”. It is understood that the ADOC may, during the Agreement, add or remove the Facilities at which YesCare will be responsible for services. The ADOC will provide adequate notice to YesCare of any changes to the Facilities for which YesCare will be responsible hereunder. Any such changes that cause a material change of scope of this Agreement will be renegotiated in accordance with Section VIII, Section 8.3 of this Agreement.

1.3 Purpose of the Project.

a) The ADOC is responsible, through the services of YesCare, for the provision of inmate healthcare that meets constitutional standards to include: comprehensive healthcare services and related support services to the inmates in the custody of ADOC. The provision of services is primarily provided on-site at the designated facilities identified in Section 1.2 of this Agreement. The responsibility of YesCare to deliver the healthcare services set forth herein to an inmate commences with the intake and physical placement of said inmate into one of the ADOC’s Facilities. Specialized services shall be provided through agreements between YesCare and area providers such as hospitals, clinics, medical specialists,

laboratories, and other specialized services. The objective of this Agreement is for YesCare to provide, manage, and operate a comprehensive healthcare services system at full capacity and in a cost-effective manner; deliver quality healthcare services; comply with American Correctional Association (ACA), National Commission on Correctional Healthcare (NCCHC), constitutional standards, applicable court orders, ADOC policies, procedures, and administrative regulations (AR), and the Office of Health Services (OHS) policies and procedures; implement a written healthcare plan with clear objectives; develop and implement policies and procedures; comply with all applicable state licensure requirements and standards regarding delivery of healthcare; maintain required levels of staffing and inventory control; maintain full reporting and accountability to the ADOC; and maintain an open, collaborative relationship with the administration and staff of the ADOC and the individual facilities. It is the intent and purpose of the ADOC that all assigned inmates receive adequate healthcare regardless of place of assignment or disciplinary status.

b) Healthcare rendered within any of the Facilities to inmates from other jurisdictions housed in any of the Facilities pursuant to contracts between the ADOC and such other jurisdictions will be the responsibility of YesCare.

c) YesCare shall provide the required healthcare and management services as specified in the RFP No. 2022-04, dated September 26, 2022 (Attached as Exhibit A), inclusive of all attachments, referenced policies, court orders, and exhibits, which are adopted and incorporated by reference to this Agreement as though fully set out herein, subject to the following clarifications, modifications, revisions, or additions.

1.6. Proposal and Program Guarantee

YesCare will be financially responsible for all monetary obligations to its employees and designated subcontractor duties under the Agreement. YesCare represents that it will fulfill these obligations in a timely manner. YesCare shall provide an annual or agreement period Performance Guarantee or Bond in the amount of fifteen million dollars (\$15,000,000.00) within fifteen (15) working days of contract signature of the ADOC Commissioner. Security will be in the form of a formal bond or other form acceptable to the ADOC. Letters of guarantee from a parent company or subsidiary will not be an acceptable form of a performance guarantee. Written documentation by the bonding entity of the continued annual renewal of the required performance bond will be submitted to the OHS Finance and Benefits Manager and OHS Data and Reporting Analyst no later than fifteen (15) days from the start date of a new agreement period. A breach of contract by YesCare will cause the performance guarantee to become payable to State of Alabama. The ADOC will be the custodian of the performance bond/guarantee. The performance guarantee is predicated upon the condition of verified services rendered by YesCare regarding the fulfillment of all contractual obligations. A good faith effort has been made by the ADOC to list all functions and/or services required for the fulfillment of the contract in the provision of inmate healthcare services. This in no way relieves YesCare of the obligation to furnish all personnel, services, and/or equipment required in meeting the needs of the ADOC for proper and professional implementation of the contract.

SECTION II: GENERAL TERMS AND CONDITIONS

2.2 Contract Terms

The subsections are amended as follows:

c) This Agreement shall commence at 12:00 a.m. on April 1, 2023. The initial agreement shall be through 11:59 p.m. on September 30, 2027. Parties clearly understand that any extension must be submitted to the Legislative Contract Review Oversight Committee and must be approved by the Governor of the State of Alabama.

The initial length of this contract is four (4) years and six (6) months. Thereafter, the parties may mutually determine to extend the contract for two (2) additional one (1) year periods. The length of the term of contract, including any renewals may not exceed six (6) years and six (6) months. If the commencement of performance is delayed because the ADOC does not execute the contract on the start date, the ADOC may change the start date, end date, and milestones to reflect the delayed execution. No renewal may be effective automatically. No renewal may be effective solely at the option of YesCare.

h) Assignment

1) YesCare may not assign or transfer any interests in the work subject of the Agreement without the prior written consent of the ADOC. In the event the ADOC gives such consent, the terms and conditions of this Agreement will apply to and bind the party or parties to whom such work is subcontracted, assigned, or transferred as fully and completely as YesCare is hereby bound and obligated. Any prior consent to assignment to one party shall not be considered a waiver of the ADOC's right not to consent to any subsequent assignments. This includes requiring such parties to submit certificates and disclosures to the ADOC for review and approval. The ADOC will not be bound to any terms and conditions included in any vendor or subcontract agreements or contractual documents. YesCare will notify the ADOC prior to discharging, removing, or failing to renew the agreement of subcontracted vendors, including, but not limited to, the laboratory and hospital. Any assignment or subcontract shall not relieve YesCare of its independent obligation to provide the services and be bound by the requirements of this Agreement.

2) YesCare shall ensure the ADOC is provided the names, addresses, phone number and primary contact of all subcontractors utilized to provide the services outlined in this agreement in a timely manner.

3) If YesCare is unable to secure or maintain individuals named in the Agreement to render the services set forth in this Agreement, YesCare will not be relieved of its obligations to complete performance. However, the ADOC will have the option to terminate this Agreement upon written notice to YesCare.

4) The ADOC may transfer the subject matter of the Agreement or payment responsibility to another State agency after giving written notice to YesCare.

i) It is understood that the Contractor (YesCare) and its agents and employees are independent contractors and will not be entitled to the benefits of the State Merit System under this Agreement.

v) It is agreed that the terms and commitments contained herein shall not constitute a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number XXVI. It is further agreed that if any provision of this Agreement shall contravene any statute or constitutional provision or amendment, either now in effect or which may during the course of this Agreement be enacted, then that conflicting provision in the Agreement shall be deemed null and void. All other terms and conditions shall remain in full force and effect.

w) In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment for the State of Alabama. For any and all other disputes arising under the terms of this Contract which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation, subject, however, at all times to the sovereign immunity of the State. Such dispute resolution shall occur in Montgomery, Alabama utilizing, where appropriate, mediators selected from the roster of mediators maintained by the Center For Dispute Resolution of the Alabama State Bar.

y) This Agreement may be terminated as otherwise provided in this Agreement, subsequent addendums, or as follows:

1) Any breach of the Agreement which, if it is susceptible of being cured, is not cured within sixty (60) days or the ADOC does not find evidence of progressive resolution within thirty (30) days of the ADOC giving notice of breach to YesCare, including but not limited to, failure of YesCare to maintain covenants, representations, warranties, certifications, bonds, and insurance.

i. Prior to exercising the right to terminate this Agreement for default, the party alleging the default shall provide written notice to the alleged defaulting party, stating in detail the events of default and what is needed to cure the default. Thirty (30) days shall be allowed for the alleged defaulting party to cure. If the alleged default is not cured within this time, the party alleging default may exercise its right to terminate for default by delivering final written notice clearly stating the termination date and reason(s) for termination.

4) Annual appropriation and funding. For the unavailability of funds appropriated or available to the ADOC, the ADOC will use its best efforts to secure sufficient appropriations to fund the Agreement. However, obligations of the ADOC hereunder will

cease immediately, without penalty or further payment being required, if the Alabama Legislature fails to make an appropriation sufficient to pay such obligation. The ADOC will determine whether amounts appropriated are sufficient. The ADOC will give YesCare notice of insufficient funding as soon as practicable after the ADOC becomes aware of the insufficiency. YesCare's obligation to perform will cease upon receipt of the notice.

5) For the convenience of the ADOC . Notwithstanding any other provision to the contrary herein, ADOC may terminate this Agreement upon the giving of one hundred twenty (120) days written notice to the other party.

6) Intentional material misrepresentation or falsification of any information provided by YesCare in the course of any dealing between the ADOC and YesCare, or between YesCare and any State agency.

2.3 Billing

Subsection i) shall be added as follows:

i) YesCare and ADOC shall comply with the following regarding payment for services:

1) Payment for proper performance of services will be commensurate with the scheduled progress of the work and will be made upon receipt of a detailed invoice for payment and proper receiving authorization from the ADOC. YesCare will invoice ADOC for services prior to the month of services. ADOC will timely submit any invoices for payment in accordance with State of Alabama policies and procedures. It is the intention of the ADOC to make any payments within a timely manner, provided however, that payment is dependent upon release by the Alabama State Comptroller's Office. Any delay in payment caused by the State Comptroller shall not be considered a default or breach by the ADOC.

2) The approved invoice amount will be paid less any designated withholdings associated with performance penalties or staffing paybacks and previous partial payments. Any such deductions not previously documented by a YesCare credit memo shall be documented in writing by ADOC and provided to YesCare concurrent with payment. Final payment will be made upon determination by the ADOC that all requirements under the contract have been completed, which determination will not be unreasonably withheld.

3) Invoices shall be submitted to the following address:

Alabama Department of Corrections
Attention: Office of Health Services, Accounting Division
301 South Ripley Street
Montgomery, Alabama 36104
Adoc.ohs@doc.alabama.gov

The following Sections shall be added as follows:

2.4 Default and Breach by YesCare

The following events shall constitute a default or breach by YesCare:

- a) YesCare violates any of the other terms, conditions, or covenants to be performed or observed by YesCare in this Agreement and fails to remedy the same within thirty (30) days after written notice thereof is given to YesCare by the ADOC or, if such default cannot be reasonably cured within thirty (30) days, fails to commence to remedy the same and thereafter diligently pursue such remedy to completion as soon as practicable;
- b) In the event that a petition in bankruptcy or for similar relief is filed by or against YesCare and, if filed against YesCare, the petition is not dismissed within sixty (60) days after the filing thereof, or in the event that YesCare is adjudged bankrupt;
- c) In the event that an assignment for the benefit of a creditor is made by YesCare;
- d) In the event of an appointment of a receiver of YesCare's property, unless such receivership is dismissed within sixty (60) days after such appointment;
- e) In the event that YesCare fails to promptly notify ADOC of any damage to any facility of which it is aware, and if such damage is caused by YesCare or its agents, subcontractors, or employees, YesCare fails to remedy such damage within a reasonable time; or
- f) YesCare, or any assignee or successor, is dissolved or otherwise ceases to exist.
- g) Failure of YesCare to continuously provide staffing as required by contract.

Upon the occurrence of any one or more of the events as described in this Section, the ADOC shall have the right to terminate this Agreement immediately upon giving written notice to YesCare of such termination. Any and all rights and remedies in the event of such default shall be cumulative, in addition to, and without waiver of or in derogation of, any right or remedy given to the ADOC under any law now or hereafter in effect.

SECTION III: REQUIRED PROPOSAL FORMAT AND SELECTION CRITERIA

No revisions to this section.

SECTION IV: CERTIFICATIONS AND VENDOR ACKNOWLEDGEMENT

The following Sections shall be amended as follows:

4.1 Liability and Indemnification

c) Said indemnification shall not be applicable to any claim, injury, death, or damage to property arising out of any act or omission on the part of the ADOC, its officials, agents, servants, or independent vendors (other than YesCare) who are directly responsible to the ADOC. The ADOC shall not be liable for the loss of, or damage to, equipment and supplies of YesCare, its agents, employees, or subcontractors unless such loss or damage was caused by the negligence of the ADOC, its employees, or inmates.

Subsections g), h), and i) shall be added as follows:

g) General. YesCare and the ADOC understand that adequate security services are necessary for the safety of the agents, employees, and subcontractors of YesCare as well as for the security of inmates and ADOC staff, consistent with the correctional setting. The ADOC will provide sufficient security to enable YesCare to safely and adequately provide the health care services described in this Agreement. Nothing herein shall be construed to make the ADOC, its deputies, or employees a guarantor of the safety of YesCare employees, agents, or subcontractors, including subcontractor's employees.

h) Security During Transportation Off-Site. The ADOC, or its contracted vendor, will provide security as necessary and appropriate in connection with the transportation of any inmate between any of the Facilities and any other location for off-site services as contemplated herein.

i) Lawsuits. In the event that any lawsuit (whether frivolous or otherwise) is filed against either the ADOC, the State of Alabama, its employees, its elected officials, employees, and/or agents based on or containing allegations concerning healthcare of inmates or of the performance of YesCare's employees, agents, subcontractors, or assignees, the parties agree that YesCare, its employees, agents, subcontractors, assignees, or independent contractors, as appropriate, may be joined as parties defendant in any such lawsuit and shall be responsible for their own defense and any judgments rendered against them. Nothing herein shall prohibit any of the parties to this Agreement from joining the remaining parties hereto as defendants in lawsuits filed by third parties.

Both parties will share information, provide timely notification to one another in the event of a claim against either party, and present a collaborative defense against such claims. There will be no settlement of claims involving both parties without consultation.

4.9 Compliance.

Subsections j), o), and p) shall be deleted and replaced as follows:

j) Immigration. The Parties agree, and hereby acknowledge, that all terms, covenants, and conditions, or actions taken under this Agreement shall comply with all applicable state, federal, or local laws, including the Alabama Beason-Hammon Alabama Taxpayer and Citizen Protection Act as amended. By signing this contract, the contracting parties affirm, for the duration of this Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

o) PREA. Pursuant to Alabama Code Section 14-11-31 as well as 28 C.F.R. Part 115, the Prison Rape Elimination Act (“PREA”), any type of sexual contact with or sexual harassment of an inmate in the custody of the ADOC by one who is responsible for the care, control, or supervision of inmates – with or without the consent of the inmate – is illegal. Under Alabama law, it constitutes a felony – custodial sexual misconduct. See also, ADOC Administrative Regulation 454, Inmate Sexual Assault and Harassment Awareness (Prison Rape Elimination Act (PREA). The ADOC has a Zero Tolerance Policy toward all forms of custodial sexual misconduct, sexual abuse, and sexual harassment. Any type of conduct – including suspected conduct – that falls within the context of custodial sexual misconduct/sexual abuse, as defined by either the State or Federal laws referenced above, shall be reported immediately to the Warden of the facility to which he or she is assigned, or the Warden’s designee.

p) Boycott Certificate. In compliance with Act 2016-312, as codified Code Section 41-16-5, the contractor hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

4.11 Notice to Parties.

Subsection a) shall be deleted and replaced as follows:

a) Any notice given to the ADOC under the awarded contract will be submitted in a timely manner. Unless otherwise provided herein, all notices or other communications required or permitted to be given under this Agreement, shall be in writing and shall be deemed to have been duly given if sent by certified mail, return receipt requested, postage prepaid or by overnight carrier, and addressed to the appropriate party (or to any other person at any other address as may be designated in writing by the parties) at the address listed below. Notices will be mailed to the Alabama Department of Corrections, Attention: Ms. Deborah Crook, Deputy Commissioner, Office of Health Services, 301 South Ripley Street, Montgomery, Alabama 36104 or Post Office Box 301501, Montgomery, Alabama, 36130, with a courtesy

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copy to Ms. Mary-Coleman Roberts, Acting General Counsel, Legal Division, located at the same address. Notices to YesCare will be mailed to the address on the submitted proposal, with a copy to Scott King, Chief Legal Officer, 205 Powell Place, Brentwood, TN 37027, unless otherwise specified by YesCare in writing to ADOC. Notices from ADOC will be sent by certified mail, return receipt requested, postage prepaid or by overnight carrier.

SECTION V: SCOPE/STATEMENT OF WORK HEALTHCARE SERVICES

5.3 Medical Intake Health Screening and Assessments

Subsection a) shall be amended to add paragraph 17) as follows:

17) Exceptions shall be made for emergency need transfers for both medical and mental health.

5.17 Off-Site Outpatient and Inpatient Services

This Section shall be amended to add subsection n) as follows:

n) Upon termination of this Agreement, all responsibility for providing healthcare services to all inmates, including inmates receiving healthcare services at outside locations, such as hospitals, will be transferred from YesCare to the ADOC or its designated provider. However, YesCare will be responsible for all costs incurred and/or adjudicated with said healthcare services prior to the date of the termination of the Agreement.

5.26 Pharmacy Services

Subsection b) on page 73 of the RFP shall be amended to add subparagraph (3) as follows:

3) These medications utilized for the treatment of Hepatitis C will be eligible for return and financial credit to the ADOC, in accordance with the pharmacy's medication return and credit policy.

5.32 Capital Non-disposable Equipment, ADOC Training, and Mental Health Activity Supplies

Subsection a) shall be amended to add the following:

a) The initial agreement period beginning April 1, 2023, through September 30, 2023, shall be a pro-rate aggregate cap of seventy-five thousand dollars (\$75,000). The ADOC will have the option to deduct seventy-five thousand dollars (\$75,000) semi-annual cap, less the value of all equipment purchases made at the end of the initial agreement period or roll a positive balance forward into the next agreement period.

Subsection c) and d) shall be amended to add the following:

c) YesCare will assign and make available to ADOC OHS all warranties or guarantees associated with any materials or equipment purchased with funds from the ADOC – OHS Healthcare Equipment Escrow Account.

d) Nothing in this Agreement is intended to circumvent the requirements of the State of Alabama Procurement Laws.

SECTION VI: CONTRACT MONITORING AND STAFFING REQUIREMENTS

6.6 Staffing Paybacks for Unfilled Hours of Service

Subsection a) The second paragraph, the last sentence shall be deleted and replaced with the following:

Monthly reports will include all new hires, staff resignations, terminations, and those placed on family and medical leave (FMLA).

Subsection a) The fourth paragraph shall be deleted and replaced with the following:

Supporting payroll and automated time-keeping information that demonstrates and verifies filled and unfilled hours per position/per Facility is to be provided. The listing of hours worked will be reported utilizing an approved ADOC institutional staffing reconciliation worksheet. Payroll information and the ADOC staffing reconciliation worksheet will be the authorized documents for which staffing penalties will be determined. In the event agency or locum services have not utilized a swipe card to record their time worked electronically, such hours (as evidenced by the agency/locum invoice) will be added to the hours recorded within the electronic timekeeping system. Part-time, temporary, agency, locum, PRN, and overtime hours paid to individuals will be included within the total to cover the required hours.

Subsection a) The sixth paragraph, the last sentence shall be deleted and replaced with the following:

Credit shall be at a rate equal to the average hourly wage plus twenty-five percent (25%) for benefits (hourly rate \$ x 1.25 = payback \$) for the unfilled hours as outlined in the attached Exhibit C, Staffing Payback Schedule.

6.8 Mental Health and PRN Observers

Subsection d) shall be added as follows:

d) Additional compensation for PRN Observers will be credited at the hourly rate outlined in Exhibit C plus 25% (twenty-five percent) for benefits (hourly rate \$ x 1.25 = credit \$) for the hours.

SECTION VII: OTHER SERVICES AND PROVISIONS

7.5 Governing Law

All services under the Agreement will be performed in accordance with applicable Alabama and Federal law, statutes, provisions, and regulations. YesCare will also comply with any Federal Court Orders that pertain to the operation of Alabama prisons and institutions for which the ADOC is statutorily responsible.

7.6 Entire Agreement

This Agreement, and any and all references herein or attachments or exhibits attached hereto, constitutes the complete understanding and entire agreement between the parties with respect to the terms and conditions set forth herein, and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and agreements that have been made in connection with the subject matter hereof and supersede all previous written or oral agreements and representations not specifically incorporated herein. No modifications or amendments to this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto. All prior negotiations, agreements, and understandings with respect to the subject matter of this Agreement are superseded hereby.

7.7 Waiver of Breach

The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision hereof.

7.8 Severability

In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect and enforceable in accordance with its terms.

7.9 Force Majeure

YesCare shall not be deemed in breach of this Agreement or subject to immediate termination thereof if it is prevented from performing any of its obligations hereunder for any reason beyond its control, including, without limitation, strikes or labor disputes, inmate disturbances, lack of the State's financial or physical resources, failure of the State to provide proper security services, acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, or any similar cause beyond the reasonable control of one or both of the parties.

7.10 Trial Duty

In the event YesCare’s personnel are required to devote time with regard to litigation or threatened litigation on behalf of the ADOC and at the request of the ADOC, this shall be part of their service time pursuant to this Agreement.

7.11 Performance Reviews

The ADOC will conduct scheduled and non-scheduled performance review of YesCare’s performance under this Agreement. All professional services performed under the Agreement are subject to a post-performance review. YesCare will cooperate with the ADOC in this review, which may require that YesCare provide records of its performance and billing. YesCare will provide any required information within thirty (30) days of the request by the ADOC. This performance review may be used by any State agency in determining whether to enter into other contractual relationships with YesCare.

YesCare will supply all billings, records, evidence of services performed, or other documents relating to the services under this Agreement as may be required for review and audit by the ADOC.

7.12 Public Information

YesCare shall not publish any findings based upon data obtained from the operation of this Agreement without the prior written permission of the ADOC, whose written consent shall not be unreasonably withheld. The ADOC may release without consent of YesCare any document or data subject to release pursuant to the State of Alabama Open Records Act, requests by the State Legislature, or any other allied state agency. However, ADOC will inform YesCare of such requests in advance of such disclosure. YesCare acknowledges that its’ ‘Redacted’ copy of its’ proposal in response to the RFP dated November 1, 2022, will be utilized in responding to a public request for said document.

7.13 Research

No research projects involving inmates, other than projects limited to the use of information from records compiled in the ordinary delivery of inmate activities, shall be conducted without the prior written consent from the ADOC Commissioner’s Office. The conditions under which the research is conducted shall be agreed upon by YesCare and the ADOC. Research shall be governed by written guidelines. In every case, the written informed consent of each inmate who is a subject of a research project shall be obtained prior to the inmate’s participation.

7.14 Accounts to be Timely Paid

YesCare shall ensure that a procedure is in place for timely payment of all of its accounts payable. Bill paying practices that reflect negatively on the ADOC shall require review by the ADOC and a withholding of a portion of the monthly payment until the situation is

rectified. Failure to pay uncontested bills within sixty (60) days of receipt or to have an agreed upon payment schedule with a subcontractor, provider, or supplier may result in a performance penalty.

7.15 Terms and Conditions

Notwithstanding any conflicting provisions herein, the RFP, and any terms, conditions, or certifications stated therein, are expressly adopted as if stated herein.

7.16 Third-Party Beneficiaries

The Parties do not intend to create in any other individual or entity, inmate or patient, the status of third-party beneficiary of this Agreement, and this Agreement shall not be construed as to create such status. The rights, duties, and obligations contained in this Agreement shall operate only between the Parties to this Agreement and shall inure solely to the benefit of such Parties. The provisions of this Agreement are intended only to assist the Parties in determining and performing their obligations hereunder. The Parties intend and expressly agree that only Parties signatory to this Agreement shall have any legal or equitable right to seek to enforce this Agreement or to bring an action for the breach of or for damages or relief under this Agreement. Nothing in this Section 7.17 shall impact, in any way, YesCare's obligation to indemnify, defend, and hold harmless the ADOC for actions initiated by any party, including inmates or patients, as a result of the services provided under this Agreement, as set out in Section 4.1 of this Agreement.

7.17 Good Faith

Both parties agree to fully cooperate with one another for the successful pursuit of their respective and mutual interests.

SECTION VIII: COMPENSATION AND ADJUSTMENTS

Section 8.2 shall be amended as follows:

8.2 Payment

a) Monthly Payment

The ADOC will pay to YesCare the Agreement Term¹ Price, payable in equal monthly installments, as indicated below:

| | Agreement Period | Price |
|-------------------------|---------------------------------------|---------------|
| First Agreement Period | April 1, 2023 to September 30, 2023 | \$105,976,146 |
| Second Agreement Period | October 1, 2023 to September 30, 2024 | \$220,126,704 |
| Third Agreement Period | October 1, 2024 to September 30, 2025 | \$228,647,376 |
| Fourth Agreement Period | October 1, 2025 to September 30, 2026 | \$237,532,164 |
| Fifth Agreement Period | October 1, 2026 to September 30, 2027 | \$246,762,276 |

A payment of one twenty fourth (1/24) of the total Agreement period amount will be made for the final month, with the balance to be paid no later than thirty (30) days after the end of the final month, with the exception of delay caused by the Alabama State Comptroller's Office, subject to a reconciliation of any adjustments, as required by the Agreement, which have not been finalized over the previous eleven (11) months of the Agreement period, and any adjustments required as a result of operations in the final month of the Agreement period.

The Agreement period prices listed in this Section are not-to-exceed amounts as related to the base compensation only and shall not apply to and/or relate to the other compensation billed to the ADOC for additional charges which are included in the Agreement period prices, including, without limitation, additional inmate population charges and Hepatitis medications. Nothing herein shall be construed as a limitation or cap of any kind upon these additional charges excluded from the base compensation due under this agreement. Further, these not-to-exceed amounts may be amended, upon mutual agreement of the parties, in the event that there is a change in the scope of services.

The total compensation to YesCare, inclusive of additional charges, including, but not limited to, additional inmate population charges and Hepatitis medications, shall not exceed \$1,064,044,666 over the Agreement term. Any amounts in excess of the per inmate allowance shall be the responsibility of the ADOC.

¹ The Agreement Term is defined for purposes of this Section as the initial four-and-one-half year contract period.

b) Population Adjustment

Should the ADOC average monthly population (AMP) increase to a level greater than 21,600 within the confines of the designated Facilities for which services are to be delivered, the ADOC shall add YesCare’s individual inmate monthly rate as designated below to the base compensation for each inmate in excess of 21,600. Should the AMP decrease to a level less than 20,800, the ADOC shall deduct the individual inmate monthly rate as designated below from YesCare’s base compensation for each inmate less than 20,800.

| Agreement Period | | AMP Above 21,600 | AMP Below 20,800 |
|-------------------------|---------------------------------------|-----------------------------|-----------------------------|
| First Agreement Period | April 1, 2023 to September 30, 2023 | \$217.07 | \$217.07 |
| Second Agreement Period | October 1, 2023 to September 30, 2024 | \$225.20 | \$225.20 |
| Third Agreement Period | October 1, 2024 to September 30, 2025 | \$233.69 | \$233.69 |
| Fourth Agreement Period | October 1, 2025 to September 30, 2026 | \$242.52 | \$242.52 |
| Fifth Agreement Period | October 1, 2026 to September 30, 2027 | \$251.75 | \$251.75 |

The AMP shall be determined and recorded by the ADOC. The ADOC shall provide information to YesCare to include a daily count for each Facility under the Agreement and the computation of the AMP within seven (7) calendar days of the end of each calendar month.

The AMP is defined by adding the inmate counts each day for every day in the month and dividing by the number of days in the month. The inmate count will include all inmates for which YesCare is responsible for providing healthcare services under the Agreement, regardless of the physical location of the inmates.

c) Adjustments for Unfilled Positions

YesCare will provide a Credit memo to the ADOC based upon the corresponding average hourly rate outlined in Exhibit C Staffing Payback Schedule, plus the twenty-five percent (25%) benefit allocation (where applicable) by position, multiplied by the number of hours short of the threshold in the above calculation.

| Agreement Period | | Period Increase |
|-------------------------|---------------------------------------|------------------------|
| First Agreement Period | April 1, 2023 to September 30, 2023 | 0.00% |
| Second Agreement Period | October 1, 2023 to September 30, 2024 | 3.86% |
| Third Agreement Period | October 1, 2024 to September 30, 2025 | 3.87% |
| Fourth Agreement Period | October 1, 2025 to September 30, 2026 | 3.89% |
| Fifth Agreement Period | October 1, 2026 to September 30, 2027 | 3.89% |

d) Retrospective Adjustments for Performance Level

No Liquidated damage or performance deficiency adjustments will be made within the first one hundred eighty (180) days of the Agreement.

Section f) shall be added as follows:

f) Changes in the Law, Standard of Care, or Scope of Services

The prices in Section 8.2 of this agreement reflect the scope of services as outlined herein and the required standard of care with regard to healthcare services. Should the following occur resulting in a documented evidence-based material increase in cost to provide inmate healthcare services:

- 1) Any applicable law, statute, rule, regulation, standard, court order or decree, or any policy, practice, or procedure of any applicable governmental unit, agency, or office (including but not limited to the federal, state, or local courts, legislative bodies, and agencies including the State or its respective officers or agents) be adopted, implemented, amended, or changed; or if
- 2) Any mandated standard of care or treatment protocol changes or evolves in any material respect; or if
- 3) Any additional correctional institutions or housing units where healthcare is to be provided other than those outlined as "Facilities" in Section 1.2 of this Agreement are added.

If any such change as described in subsection 1), 2), or 3), materially affects the cost to YesCare of providing healthcare services or impacts the scope of services or staffing hereunder, YesCare and the ADOC agree to meet to negotiate additional compensation or reduction in compensation of a service requirement change. The parties agree to meet and negotiate in good faith within ninety (90) days following the giving of notice by one party to the other party of a change (whether such change is anticipated or implemented). If the parties fail to reach agreement regarding compensation or service requirement changes within the foregoing ninety (90) day period, then either the ADOC or YesCare may terminate this Agreement in accordance with Section 2.2 of this Agreement.

The below Sections shall be added as follows:

IX. ELECTRONIC HEALTH RECORDS

YesCare will implement a new electronic healthcare record (EHR), eOMIS by Marquis Software, for the Alabama Department of Corrections, as more fully described in YesCare's response to the RFP #2022-04. YesCare will proceed with the plan to provide a partial EHR providing eMAR and scheduling functionality to replace Sapphire and eMAR. Implementation of the full EHR will occur within the first year of the contract through a phased-in approach. The schedule for implementation will be mutually agreed upon by the parties. During the tenure of the contract, YesCare will be responsible for all associated licensing fees. Upon contract completion, YesCare will transfer the database to the ADOC or the subsequent vendor at the ADOC's discretion with an executed contract directly with Marquis Software and have no further responsibility for the EHR operations and licensing.

X. MOBILE UNITS

YesCare agrees to assign three (3) Mobile Response Clinics (“MRC”) to the inmates within the Alabama Department of Corrections, as more fully described in its bid response to RFP #2022-04. YesCare will coordinate locations and assignments with the ADOC; however, YesCare retains the right to determine the locations assigned to each MRC as well as how the MRCs will be utilized. Furthermore, upon contract completion, YesCare retains full ownership of the MRC and all associated equipment.

XI. COVID 19 MITIGATION EFFORTS

11.1 Background

In 2022, the Center for Disease Control and Prevention (CDC) in partnership with the Department of Justice (DOJ), provided financial assistance to Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC) recipients to respond to Coronavirus Disease 2019 (COVID-19) in confinement facilities within their jurisdictions. ADOC was granted funding through this partnership, which allows for reimbursement to our agency for a number of modalities for Detection and Mitigation of COVID-19. Included in ADOC's grant is the ability to use funding for "collection supplies, test kits, reagents, consumables, and other necessary supplies for existing or new screening testing or onboarding new platforms to support testing." The grant funding shall terminate on July 31, 2024.

11.2 COVID-19 Related Services and Reimbursable Expenditures

Through the duration of the pandemic, YesCare must provide healthcare services to the standards outlined in the Agreement. Additionally, and specifically related to COVID-19, YesCare is required to comply with the following:

- a) All incoming inmates will receive diagnostic test consistent with Section 5.3 Medical Intake Health Screening and Assessments, Baseline Health Indicators of the RFP, Rapid COVID test to include a Polymerase Chain Reaction (PCR) test for COVID (SARS-CoV-2) for confirmation after a positive Rapid COVID test.
- b) Inmates scheduled for intra-system transfers will be screened for signs and symptoms of COVID-19 shall receive a rapid antigen test prior to transfer and PCR test to confirm a positive finding..
- c) Inmates being outgated to the community (including but not limited to court, county jail, etc.) will receive rapid antigen test prior to being outgated.
- d) All inmates who are returning to the community at the end of their sentence will receive a diagnostic test for COVID-19 by means of a PCR diagnostic test.
- e) Consistent with Section 5.8 Emergency Services, Test inmates, ADOC staff and/or contracted employees as a result of exposure to . . . COVID.
- f) Exceptions will be made for emergency need transfers for both medical and mental health. Should future testing pathology or technology change YesCare may propose using a different means of testing to the ADOC Deputy Commissioner of Health Services who will consult with the Alabama Department of Public Health, for approval of such testing. Any other COVID testing completed at the site.

Specifically, for the purposes of this Agreement, YesCare will submit a monthly statement to the ADOC-Office of Health Services that details the cost associated with rapid and PCR-diagnostic

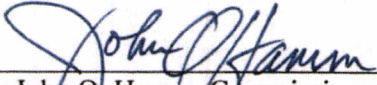
testing. The monthly statement shall include the following: a unique identifier number of the person tested (not the name); date the test was performed; type of test performed; result of the test performed; cost of test performed; and measures taken to isolate the positive cases.

No additional compensation to YesCare will be provided for these services or testing. Compensation for these services and testing are included in the amounts in Section 8.2.

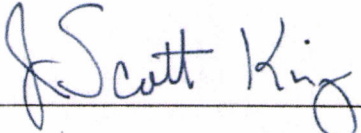
XII. COOPERATION WITH STATE'S COST SAVING EFFORTS

YesCare agrees to work with the ADOC throughout the contract period to reduce the overall cost of this agreement by utilizing potential cost saving methods identified by Medicaid, the State Employees Insurance Board (SEIB), and BlueCross BlueShield. Potential cost savings may include, but are not limited to, rebates, reimbursements, and/or alternative coverage options.

IN WITNESS, WHEREOF, the parties have executed this Agreement in their official capacities with legal authority to do so.

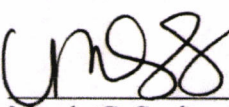

By: John O. Hamm, Commissioner
Alabama Department of Corrections

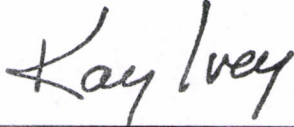
1-19-2023
Date


By: J. Scott King, SVP & CLO
CHS AL, LLC

January 18, 2023
Date

Approved as to Legal Form:


Mandy C. Speirs

 2/23/2023
Kay Ivey, Governor

Reviewed by Contract
Review Committee
Contract # C220052195

FEB 02 2023

Alabama Legislature
