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PRIDE FOSTER/ADOPTIVE TRAINING CONTRACT

BETWEEN THE

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILDREN AND FAMILY SERVICES EASTERN SERVICE AREA

AND

LUTHERAN FAMILY SERVICES

This contract is entered into by and between the Nebraska Department of Health and Human Services, **Division of Children & Family Services Eastern Service Area** (hereinafter the "Department"), and **Lutheran Family Services** (hereinafter the "Contractor").

PURPOSE. The purpose of this contract is: Provide PRIDE Foster/Adoptive Parent Pre-Service Training for prospective foster/adoptive parents of Nebraska State Wards in the Eastern Services Area.

I. TERM AND TERMINATION

A. TERM. This contract is in effect from July 1, 2008 until June 30, 2009.

B. TERMINATION. This contract may be terminated at any time upon mutual written consent or by either party for any reason upon submission of written notice to the other party at least 30 (Thirty) days prior to the effective date of termination. The Department may also terminate this contract in accord with the provisions designated "AVAILABILITY OF FUNDING" and "BREACH OF CONTRACT." In the event either party terminates this contract, the Contractor shall provide to the Department all work in progress, work completed, and materials provided to it by the Department in connection with this contract immediately.

II. CONSIDERATION

A. The Department agrees to pay the Contractor the total amount not to exceed $15,435.00 (fifteen thousand four hundred thirty five dollars) for the services specified herein.

B. PAYMENT STRUCTURE. Payment is for 5 (five) 27 hour PRIDE training sessions. Payment of $3,087 (three thousand eighty seven dollars) will be made at the end of each training session.

III. SCOPE OF SERVICES

The Contractor agrees to perform the following services

A. Contractor will present the PRIDE training curriculum in a group setting to families referred by the Department. The training will consist of 27 (twenty-seven) hours of training divided into individual consecutive classes. The Contractor agrees to arrange make=up classes for participants who miss one of the regularly scheduled classes in their current session.

B. The Contractor agrees to provide the PRIDE training a total of 5(five) times during the course of this contract.

C. The Contractor agrees to make each session available for a minimum of 6(six) pre-registered participants and a maximum of 30 (thirty) participants unless prior authorized by the Department Contract Monitor

D. The Contractor agrees to designate a contact person for applicants to contact to register for training.

E. The Contractor agrees to provide two consistent trainers for the PRIDE training. One trainer shall be a currently licensed foster parent in good standing with the Department and supportive of Family Centered Practice. Trainers must be certified to train the PRIDE curriculum, unless written permission is obtained from the Department. Trainers should be knowledgeable about foster care services and the needs of foster families. The Contractor will provide the names and resumes of the trainers to the Contract Monitor prior to the beginning of the training session to determine if the trainers meet the qualifications.

F. The Contractor agrees to fingerprint PRIDE training participants who do not obtain fingerprints from the Nebraska State Patrol.

G. The Contractor will provide the following paperwork in a complete organized format for each participant within 10 (ten) days of completion of the 27 (twenty-seven) hour PRIDE training session.

    1. A list of class participants names, addresses and phone numbers.
    2. The Contractor shall make a written recommendation on each attendee based on class participation regarding each participant's ability to provide foster care. This recommendation should include the participant's observed behaviors, attitudes and viewpoints expressed by the participant during the training sessions.
    3. PRIDE homework and Department self study forms. If no PRIDE homework and/or self study forms are submitted a written statement as to why these documents are missing shall accompany the existing paperwork.

H. The Contractor is expected to submit billing documents to the Department Contract Monitor within 90 (ninety) days of the provision of service. The Contractor understands and agrees that any bills submitted for payment that are over a year from the date of service will not be paid.

I. The Contractor is responsible for any and all costs associated with the production and delivery of reports, billings and other related administrative costs.

The Eastern Service Area Foster Parent Specific Information Manual will be reproduced by the Contractor and supplied to attendees during training.

IV. DEPARTMENT RESPONSIBILITIES

The Department shall be responsible for the following:

A. The Department will provide PRIDE Participants manuals for all training participants.
B. The Department agrees to provide Contractors, on a regular basis, a list of individuals approved to attend training.
C. The Department will be responsible for coordinating and approving training dates and distributing that information to foster parent applicants.

V. GENERAL PROVISIONS

A. ACCESS TO RECORDS AND AUDIT RESPONSIBILITIES.

1. All Contractor books, records, and documents regardless of physical form, and including data maintained in computer files or on magnetic, optical or other media, relating to work performed or monies received under this contract shall be subject to audit at any reasonable time upon the provision of reasonable notice by the Department. These records shall be maintained as follows: all records shall be maintained for five (5) years from the date of final payment and records that fall under the provisions of HIPAA shall be maintained for six (6) full years from the date of final payment. In addition to the foregoing retention periods, all records shall be maintained until all issues related to an audit, litigation or other action are resolved to the satisfaction of the Department. All records shall be maintained in accordance with generally accepted accounting principles.

2. The Contractor agrees to provide the Department any and all written communications received by the Contractor from an auditor related to Contractor's internal control over financial reporting requirements and communication with those charged with governance including those in compliance with or related to Statement of Auditing Standards (SAS) 112 *Communicating Internal Control related Matters Identified in an Audit* and SAS 114 *The Auditor's Communication with Those Charged With Governance.* The Contractor agrees to provide the Department with a copy of all such written communications immediately upon receipt or instruct any auditor it employs to deliver copies of such written communications to the Department at the same time copies are delivered to the Contractor, in which case the Contractor agrees to verify that the Department has received a copy.

3. The Contractor agrees to immediately correct any material weakness or condition reported to the Department in the course of an audit and notify the Department that the corrections have been made.

4. In addition to, and in no way in limitation of any obligation in this contract, the Contractor agrees that it will be liable for audit exceptions, and shall return to the Department all payments made under this contract for which an exception has been taken or which has been disallowed because of such an exception, upon demand from the Department.

B. AMENDMENT. This contract may be modified only by written amendment, duly executed by both parties. No alteration or variation of the terms and conditions of this contract shall be valid unless made in writing and signed by the parties hereto. Every amendment shall specify the date on which its provisions shall be effective.

C. ASSIGNMENT. The Contractor agrees not to assign or transfer any interest, rights, or duties under this contract to any person, firm, or corporation without prior written consent of the Department. In the absence of such written consent, any assignment or attempt to assign shall constitute a breach of this contract.

D. AVAILABILITY OF FUNDING. Due to possible future reductions in appropriations, the Department cannot guarantee the continued availability of funding for this contract notwithstanding the consideration stated above. In the event funds to finance this contract become unavailable either in full or in part due to such reductions in appropriations, the Department may terminate this contract or reduce the consideration upon notice in writing to the Contractor. The Department shall be the final authority as to the availability of funds. The effective date of such contract termination or reduction in consideration shall be specified in the notice as the date of service of said notice or the actual effective date of the funding reduction, whichever is later. Provided, that reductions shall not apply to payments made for services satisfactorily completed prior to said effective date. In the event of a reduction in consideration, the Contractor may terminate this contract as of the effective date of the reduction upon the provision of advance written notice to the Department.

E. BREACH OF CONTRACT.

1. Should the Contractor breach this contract, the Department may, at its discretion, terminate this contract immediately upon written notice to the Contractor. The Department shall pay the Contractor only for such performance as has been properly completed and is of use to the Department. The Department may, at its discretion, contract for provision of the services required to complete this contract and hold the Contractor liable for all expenses incurred in such additional contract over and above the total cost of performance set forth herein. This provision shall not preclude the pursuit of other remedies for breach of contract as allowed by law.

2. The waiver by the Department of a breach of any provision of this contract by Contractor shall not operate or be construed as a waiver of any subsequent

breach by Contractor. No waiver shall be valid unless in writing and signed by the party.

F. CONFIDENTIALITY. The Contractor agrees that any and all information gathered in the performance of this contract, either independently or through the Department, shall be held in the strictest confidence and shall be released to no one other than the Department without the prior written authorization of the Department, provided, that contrary contract provisions set forth herein shall be deemed to be authorized exceptions to this general confidentiality provision. This provision shall survive termination of this contract.

G. CONFLICTS OF INTEREST. In the performance of this contract, the Contractor agrees to avoid all conflicts of interest and all appearances of conflicts of interest; the Contractor will notify the Department of any such instances encountered in the course of his/her work so that other arrangements can be made to complete the work.

H. DATA OWNERSHIP AND COPYRIGHT. All data collected as a result of this project shall be the property of the Department. The Contractor may copyright any of the copyrightable material produced in conjunction with the performance required under this contract. The Department hereby reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the copyrightable material for State Government purposes. This provision shall survive termination of this contract.

I. DEBARMENT, SUSPENSION OR DECLARED INELIGIBLE. The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

J. DOCUMENTS INCORPORATED BY REFERENCE. All references in this contract to laws, rules, regulations, guidelines, directives, and attachments which set forth standards and procedures to be followed by the Contractor in discharging its obligations under this contract shall be deemed incorporated by reference and made a part of this contract with the same force and effect as if set forth in full text, herein.

K. DRUG-FREE WORKPLACE. The Contractor hereby assures the Department that it will operate a drug-free workplace in accordance with State guidelines and has implemented a drug-free workplace policy, which is available to the Department on request.

L. FORCE MAJEURE. Neither party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under this contract due to a natural disaster, or other similar event outside the control and not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of this contract. The party so affected shall immediately give notice to the other

party of the Force Majeure Event. Upon such notice, all obligations of the affected party under this contract which are reasonably related to the Force Majeure Event shall be suspended, and the affected party shall do everything reasonably necessary to resume performance as soon as possible. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event and will not suspend performance requirements under this contract.

M. GOVERNING LAW. This contract shall be subject to, governed by, and construed according to the laws of the State of Nebraska, without regard to principles of conflict of laws.

N. HOLD HARMLESS.
1. The Contractor agrees to assume all risk of loss and hold the Department, its employees, agents, assignees, and legal representatives harmless from all liabilities, demands, claims, suits, losses, damages, causes of action, fines, or judgments and expenses incident thereto, for injuries to persons and for loss of, damages to, or destruction of property arising out of or in connection with either party's performance under this contract and proximately caused by the negligent or intentional acts or omission of the Contractor, its officers, employees, assignees, or agents.
2. The Department's liability is limited to the extent provided by the Nebraska Tort Claims Act, the Nebraska Contract Claims Act, and the Nebraska Miscellaneous Claims Act; and any other applicable provisions of law. The Department does not assume liability for the action of its Contractors.

O. INDEPENDENT CONTRACTOR. The Contractor is an Independent Contractor and neither it nor any of its employees shall for any purpose be deemed employees of the Department. The Contractor shall employ and direct such personnel as it requires to perform its obligations under this contract, exercise full authority over its personnel, and comply with all workers' compensation, employer's liability and other federal, state, county, and municipal laws, ordinances, rules and regulations required of an employer providing services as contemplated by this contract.

P. INTEGRATION. This written contract represents the entire agreement between the parties, and any prior or contemporaneous representations, promises, or statements by the parties, that are not incorporated herein, shall not serve to vary or contradict the terms set forth in this contract.

Q. NEBRASKA NONRESIDENT INCOME TAX WITHHOLDING. Contractor acknowledges that Nebraska law requires the department to withhold Nebraska income tax if payments for personal services are made in excess of $600 to any contractor who is not domiciled in Nebraska or has not maintained a permanent place of business or residence in Nebraska for a period of at least six months. This provision applies to individuals, to a corporation if 80% or more of the voting stock of the corporation is held by the shareholders who are performing personal services, and to a partnership or limited liability company if 80% or more of the capital interest

or profits interest of the partnership or limited liability company is held by the partners or members who are performing personal services.

The parties agree, when applicable, to properly complete the Nebraska Department of Revenue Nebraska Withholding Certificate for Nonresident Individuals Form W-4NA or its successor. The form is available at:
http://www.revenue.ne.gov/tax/current/f_w-4na.pdf or
http://www.revenue.ne.gov/tax/current/fill-in/f_w-4na.pdf

R. NEBRASKA TECHNOLOGY ACCESS STANDARDS. The Contractor shall review the Nebraska Access Technology Standards, found at http://www.nitc.state.ne.us/standards/accessibility and ensure that products and/or services provided under the Contract comply with the applicable standards. In the event such standards change during the Contractor's performance, the State may create an amendment to the Contract to request that Contract comply with the changed standard at a cost mutually acceptable to the parties.

S. NON-DISCRIMINATION. The Contractor agrees to comply fully with Title VI of the Civil Rights Act of 1964, as amended; the Rehabilitation Act of 1973, Public Law 93-112, as amended; the Americans With Disabilities Act of 1990, Public Law 101-336; and the Nebraska Fair Employment Practice Act, as amended, in that there shall be no discrimination against any employee who is employed in the performance of this contract, or against any applicant for such employment, because of age, color, national origin, ancestry, race, religion, creed, disability, sex or marital status. This provision shall include, but not be limited to the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor further agrees to insert similar provisions in all sub-contracts for services allowed under this contract under any program or activity.

T. PROMPT PAYMENT. Payment will be made in conjunction with the State of Nebraska Prompt Payment Act. The Department may request that payment be made electronically instead of by State warrant.

U. PUBLIC COUNSEL. In the event the Contractor provides health and human services to individuals on behalf of the Department under the terms of this contract, Contractor shall submit to the jurisdiction of the Public Counsel under NEB. REV. STAT. §§ 81-8,240 through 81-8,254 with respect to the provision of services under this contract. This clause shall not apply to Contracts between the Department and long-term care facilities subject to the jurisdiction of the state long-term care ombudsman pursuant to the Long-Term Care Ombudsman Act.

V. RESEARCH. The Contractor may not engage in research utilizing the information obtained through the performance of this contract without the express written consent of the Department. The term "research" shall mean the investigation,

analysis, or review of information, other than aggregate statistical information, which is used for purposes unconnected with this contract.

W. SEVERABILITY. If any term or condition of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this contract did not contain the particular provision held to be invalid.

X. SUBCONTRACTORS. The Contractor agrees that before subcontractors may be utilized in the performance of this contract, the Department must give prior written approval. If the Contractor subcontracts a portion of the work involved in this contract, it shall ensure that the subcontractor complies with all workers' compensation, employer's liability and other federal, state, county, and municipal laws, ordinances, rules and regulations required of an employer providing services as contemplated by this contract.

NOTICES. Notices shall be in writing and shall be effective upon receipt. Written notices, including all reports and other written communications required by this contract shall be sent to the following addresses:

FOR THE DEPARTMENT:

Linda Hruska, Supervisor
Protection & Safety Resource Development
Department of Health & Human Services
1313 Farnam
Omaha, NE 68102
(402) 595-3919

FOR THE CONTRACTOR:

Matt Priest, Foster Care Program Supervisor
Lutheran Family Services
124 S. 24th St.
Omaha, NE 68102
(402) 342-7038

IN WITNESS THEREOF, the parties have duly executed this contract hereto, and each party acknowledges the receipt of a duly executed copy of this contract with original signatures.

FOR THE DEPARTMENT:

Signature

Barry DeJong
Service Area Administrator
Department of Health and Human Services
Eastern Service Area

DATE: 7/11/08

FOR THE CONTRACTOR:

Signature

Ruth Henrichs
President/CEO
Lutheran Family Services

DATE: 7-18-08