

**Contract
For
Temporary Nursing Services
at the
Cuyahoga County Corrections Center**

This Contract is entered into on January 1, 2013 ("effective date"), by and between the County of Cuyahoga, Ohio, on behalf of the Cuyahoga County Sheriff Department (hereinafter called the "County"), and the following agencies (hereinafter called "Vendors"):

1. Maxim Healthcare Services, Inc., dba Maxim Staffing Solutions ("Maxim") as Primary Vendor;
2. Annashae Corporation ("Annashae") as Secondary Vendor;
3. First Choice Medical Staffing of Ohio, Inc. ("First Choice") as Tertiary Vendor.

RECITALS:

Whereas, the County, through its Sheriff Department, operates the Cuyahoga County Corrections Center ("the Center") located at 1215 West Third Street, Cleveland, Ohio 44113; and,

Whereas, the County wishes to contract for temporary nursing services to supplement its permanent nursing staff and provide professional services for the inmate population at the Center on as needed basis; and,

Whereas, the Vendors work with nursing staff and place them with facilities nationwide, such as correctional institutions, hospitals, community health centers, psychiatric treatment centers, and urgent care facilities; and,

Whereas, the Vendors, in response to the County's Request for Proposal RFP# 23735, dated May 21, 2012, (known as the "RFP"), have submitted proposals on June 13, 2012, to furnish such professional services to the County; and

Whereas, the County selected the Vendors to provide temporary nursing services on an as needed basis as Primary, Secondary and Tertiary Vendors; and

Whereas, the Vendors do not itself engage in the practice of medicine and the relationship between them and the nursing staff is that of independent contractor, and the nursing staff are each responsible for the payment of all income, worker's compensation insurance premiums, Social Security, Medicare and all other applicable state, federal and local taxes; and,

Whereas, the Vendors understand the County's need to be protected against any claims, losses, or other liabilities relating to this Contract or the services rendered under this Contract, and the Vendors will provide for malpractice insurance for the nursing staff assigned by it to the Center, and such other insurance to protect the County, including commercial general liability, automobile liability, workers' compensation, and employer liability; and,

Whereas, the Vendors have the capacity to address the Center's temporary needs for nursing staff and will exercise best efforts to assign nursing staff to the Center on a temporary, as needed basis to provide the services needed at the Center in a professional manner as deemed necessary by the Cuyahoga County Sheriff Department.

NOW, THEREFORE, for valuable consideration the validity and sufficiency of which is hereby acknowledged, the County and the Vendors agree as follows:

1. *Services.* The Vendors shall provide temporary nursing services for the Center in compliance with the Cuyahoga County Sheriff Department's policies and procedures, on an as needed basis, as further described in the RFP, that is attached to this Contract as Exhibit A and made a part hereof as if fully rewritten herein.

For the purposes of this Contract, Maxim will act as a Primary Vendor, Annashae will act as a Secondary Vendor and First Choice will act as a Tertiary Vendor. The Primary Vendor shall fill at least 30% of each month's total number of scheduled requests for supplemental staffing. The Secondary and Tertiary Vendors shall fill at least 25% and 15%, respectively, of each month's total number of scheduled requests for supplemental staffing. Failure of the Primary Vendor to meet this standard may impact its status as Primary Vendor and cause the County to terminate the contract with the Primary Vendor.

The parties have to agree in advance and confirm via facsimile all scheduled requests which will be documented by the Sheriff's Department. The County shall first contact the Primary Vendor and allow [period of time] for response. For emergency situations, the County will first contract the Primary Vendor. In the event the Primary Vendor fails to respond in one hour, the County will contact the Secondary Vendor. In the event the Secondary Vendor fails to respond in one hour, the County will contact Tertiary Vendor.

The Vendors shall assign nursing staff to the Center as requested by the Cuyahoga County Sheriff Department in accordance with the Center's fluctuating needs as determined by the Sheriff Department, and the Vendors shall ensure that the nursing staff is bound by the terms of this Contract. The County shall have the right, in its sole discretion, to review the credentials of the practitioners assigned by the Vendors, and only those approved will be granted privileges to practice at the Center.

2. *Vendor Ethics Training.* Vendors agrees to complete Cuyahoga County's vendor registration requirements and to undergo Cuyahoga County's vendor ethics training, administered by the Cuyahoga County Inspector General, for out-of-state providers as soon as practicable upon execution of this Contract. Information about Cuyahoga County's Vendor Ethics Training is available at the Cuyahoga County Inspector General's web site at <http://inspectorgeneral.cuyahogacounty.us>.

3. *Certifications, Representations, and Warranties.* Each of the Vendors certifies, represents, and warrants that:

A. Each of the nursing staff is fully qualified and carries all required and applicable State and Federal licenses to practice and provide the services required under this Contract; and,

B. Each of the nursing staff's license to practice has never been suspended or revoked, and none of its nurses has received any other sanctions from any licensing board, specialty board, or other applicable state or local professional entity; and,

C. None of the nursing staff has been denied membership or re-appointment to any applicable professional staff, and its practitioners' applicable practice privileges have never been suspended, curtailed, or revoked; and,

D. Neither one of the Vendors nor any of the nursing staff assigned by it to the Center nor any of its employees or agents have any interest in this Contract that would constitute a conflict of interest or other violation of Ohio, federal, or local laws and rules; and,

E. Neither one of the Vendors nor any of the nursing staff assigned by it to the Center nor any of its employees or agents have any criminal background or record that would bar the individual from performing the individual's obligations under this Contract.

4. *Federal, State, and Local Laws, Rules, and Regulations.* The Vendors agree to respect and abide by all Federal, State, and Local laws, rules, and regulations—including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any other laws, rules, and regulations pertaining to confidentiality and disclosure with regard to all information and records obtained or reviewed in the course of providing services to the County and/or its detainees—and shall cause all the practitioners assigned by it to the Center to do the same.

5. *Contract to Remain in Compliance with Certifications, Representations, and Warranties as Continuing Commitments/Verification.* The Vendors shall ensure that all of its certifications, representations, and warranties under this Contract shall remain true throughout the duration of the Contract as if they are continuing commitments, and it shall immediately notify the Cuyahoga County Sheriff Department in writing in the event that any of the certifications, representations, and warranties ceases to be true. For instance, the Vendors shall continuously ensure that all nursing staff assigned by it shall maintain all licensing necessary to perform the services under this Contract throughout the duration of this Contract and shall immediately notify the Cuyahoga County Sheriff Department in the event any such license is suspended or terminated. At its sole discretion, the County has the unequivocal right to review and audit the Vendors' continuing certifications, representations, and warranties.

6. *Industry Expertise and Customer Service.* The Vendors shall provide and cause the nursing staff assigned by it to render and provide all services under this Contract in a competent, efficient, and satisfactory manner, in accordance with generally accepted medicine standards and in accordance with the Cuyahoga County Sheriff Department's policies and procedures. All nursing staff shall collaborate with the Cuyahoga County Sheriff Department's Utilization Management program to ensure that medically necessary care is provided.

7. *Fees/Invoicing.* The Vendors shall submit a complete monthly invoice to Cuyahoga County on approved invoice forms for the accrued fees based on the hourly rates as described in each Vendor's Fee Proposal, attached to this Contract as Exhibits B, C, and D, and made a part hereof as if fully rewritten herein. The County will pay the Vendors for satisfactory services rendered by the nursing staff at the rates described and listed in Exhibits B, C and D of this Contract in accordance with the County's practices. In no event shall any invoice to Cuyahoga County carry any interest or other fees not described in this Contract.

8. *Term and Maximum Not to Exceed Value.* This Contract shall commence on January 1, 2013, and continue for a period of three (3) years thereafter, with a maximum *not-to-exceed* dollar value of \$ 300,000.00, divided as follows: Maxim Healthcare Services, Inc., primary contractor, \$120,000.00 (\$40,000.00 each year for three years); Annashae Corporation, secondary vendor, \$105,000.00 (\$35,000.00 each year for three years); First Choice Medical Staffing of Ohio, tertiary provider, \$75,000.00 (\$25,000.00 each year for three years). The services under this Contract are on as needed basis, as determined by the Cuyahoga County Sheriff Department, and there is no obligation on the County to procure any minimum amount of services or to expend any minimum dollar amounts.

Any provision of this Contract to the contrary notwithstanding, payment by the County hereunder shall be subject to annual appropriation of sufficient funds by Cuyahoga County Council. The County may terminate this contract at any time during the term of the contract, on

30-days written notice to each of the Vendors, in the event of insufficient appropriation, at no additional charge or cost to the County.

9. *Liability, Releases, Defense, and Indemnification.* The Vendors shall have sole liability for, and shall indemnify, defend, and hold harmless the County against all acts and omissions by it or any of its employees or agents in any way relating to this Contract or arising from the services rendered under this Contract, any workers' compensation claims relating to the practitioners assigned by it to the Center, as well as any and all breaches of any of the terms, certifications, representations, warranties, or other covenants under this Contract. The Vendors, on behalf of themselves, their owners, members, directors, officers, employees, agents, representatives, parents, subsidiaries, affiliates, successors, and assigns, including the nursing staff assigned by it to the Center, hereby releases and shall continue to release and hold Cuyahoga County harmless from any and all claims, losses, or other liabilities in any way relating to this Contract or arising from the services rendered under this Contract, including, but not limited to, workers' compensation, medical negligence, or malpractice.

10. *Insurance.* Each one of the Vendors shall provide for insurance of at least one million dollars (\$1,000,000.00) per each occurrence, and no less than two million dollars (\$2,000,000.00) in the aggregate, against all acts and omissions in any way relating to or arising under this Contract, and shall name the County as a named insured, upon execution of this Contract. Such insurance shall, at a minimum, include coverage for commercial general liability, automobile liability, workers' compensation and employer liability, and umbrella and excess liability. Each of the Vendors shall also provide for professional liability insurance for the nursing staff assigned by it for at least one million dollars (\$1,000,000.00) per occurrence, and no less than three million dollars (\$3,000,000.00) in the aggregate per nurse, and shall name the County as a named insured on the professional liability insurance as well.

10. *Prohibition on Assignment.* Vendors may not assign, directly or indirectly, all or part of its rights or obligations under this Contract without the prior written consent of the County.

11. *Termination:*

(A) *For Cause:* If any of the Vendors or any of the nursing staff assigned by it breaches any terms of this Contract or if any of the certifications, representations, and warranties under this Contract turn out not to be true or cease to be true, the County shall have the right to immediately terminate this Contract with each of the offending Vendors by giving written notice of termination to the respective VENDOR. The Contract with the remaining Vendors shall continue, unless otherwise terminated under the provisions of this Contract, until the expiration of the term.

(B) *For Convenience:* The County shall have the right to terminate this Contract at any time during the term, with thirty (30) days advance written notice to the respective Vendor. Termination of the Contract with one of the Vendors pursuant to this paragraph shall not affect the Contract with the remaining Vendors and the County's obligation to pay the Vendors for services performed prior to termination.

12. *Governing Law and Jurisdiction.* This Contract shall be governed by and construed under the laws of the State of Ohio without regard to conflicts of law provisions. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this Contract, and each party consents to the exclusive jurisdiction of such courts. Vendors hereby agrees not to challenge any provision in this contract, including this Governing Law and Jurisdiction provision, and not to attempt to remove any legal action outside of Cuyahoga County for any reason.

13. *No Indemnification by County.* Vendors acknowledge that as an Ohio political subdivision, the County is prohibited by law from agreeing to indemnify any person or entity, and agree that no provision of this Contract or any other contract or agreement between Vendors and the County may be interpreted to obligate the County to indemnify or defend Vendors or any other party.

14. *Notices.* Any notice to be given under this Contract by either party to the other may be effected either by personal delivery in writing or by certified mail, postage-prepaid, return receipt requested. Notice delivered personally shall be deemed received upon actual receipt; notice sent by certified mail shall be deemed received on the date the return receipt is either signed or refused. Mailed notices shall be addressed to the parties at the addresses appearing below:

To the County:	Attn: Health Care Manager Cuyahoga County Sheriff Department 1200 Ontario Street, Floor Cleveland, Ohio 44113
With a copy to:	Attn: Cuyahoga County Director of Law Cuyahoga County Department of Law 1219 Ontario Street, 4th Floor Cleveland, Ohio 44113
To Primary Vendor:	Attn: Mr. Bryant Moshang Maxim Healthcare Services, Inc. 7227 Lee Deforest Drive Columbia, MD 21046

To Secondary Vendor: Attn: Ms. Marilyn Cimperman
Annashae Corporation
673 Alpha Drive Suite C
Cleveland, OH 44143

To Tertiary Vendor: Attn: Ms. Nadine Svancara
First Choice Medical Staffing of Ohio
1457 West 117th Street
Cleveland, OH 44107

15. *Entire Agreement.* This Contract constitutes the entire agreement between the parties, either express or implied, with respect to the subject matter hereof. No modification of this Contract shall be binding upon the parties unless set forth in writing and signed by both parties, or their respective successors or assigns.

16. *Parties Bound and Benefited.* This Contract shall bind and benefit the parties hereto and, as applicable, their respective owners, members, directors, officers, representatives, successors, and assigns.

17. *Non-Waiver.* The County's failure to require performance of any provision of this Contract, or if it requires performance and does not follow through, shall not affect the County's right to require performance at any time thereafter. Additionally, the County's waiver of any breach or default of this Contract shall not constitute a waiver of any subsequent breach or default or a waiver of the provision itself or any other provision.

18. *Contract Interpretation and Construction.* In the event an ambiguity or question of intent or interpretation arises, this Contract shall be construed as though drafted by all parties, and no presumption or burden of proof shall arise favoring or disfavoring one party by virtue of the authorship of any of the provisions of this Contract.

19. *Counterparts and Facsimile/Electronic Execution.* This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Contract (and each amendment, modification and waiver in respect of it) by facsimile or other electronic transmission, including email, shall be as effective as delivery of a manually executed original counterpart of each such instrument.

20. *Severability.* If any provision of this Contract is invalid or unenforceable for any reason, this Contract shall be divisible as to such provision and the remainder of this Contract shall be and remain valid and binding as though such provision was not included herein.

21. *Applicable County Ordinances.* All County contracts, including this Contract, are subject to all applicable County ordinances, including, but not limited to, the Cuyahoga County Ethics Ordinance, Cuyahoga County Inspector General Ordinance, and Cuyahoga County

Contracting and Purchasing Procedures Ordinance. Copies of all County ordinances are available on the County Council's web site at <http://council.cuyahogacounty.us/>.

22. *Public Records.* All parties hereto acknowledge that County is a political subdivision in the State of Ohio and as such is subject the Ohio Revised Code and other law related to the keeping and access to Public Records, including any and all applicable Sunshine Laws, open meeting requirements, and retention schedules effecting any and all manner of communication with the County and any and all documents in any format or media.

23. This Contract has been properly authorized pursuant to the required provisions of any and all charter provisions, ordinances, resolutions and regulations of County and each of the Vendors. The individuals signing on behalf of the parties to this Contract are authorized to execute this Contract on behalf of County and the Vendors. Vendors recognize and agree that no public official or employee of County may be deemed to have apparent authority to bind the County to any contractual obligations not properly authorized pursuant to County's Contracting and Purchasing Procedures. The signatory parties are legally bound by the terms and conditions of this Contract starting on the "effective date" of the Contract even when the Contract is not signed by all the enumerated Vendors.

IN WITNESS WHEREOF, the parties have hereunto set their hands by their duly authorized respective officer(s), and affixed the seals of said parties:

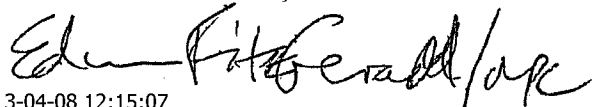
COUNTY OF CUYAHOGA, OHIO

By: _____

Print Name: _____

Date: _____

Edward FitzGerald, County Executive



2013-04-08 12:15:07

MAXIM HEALTHCARE SERVICES, INC., DBA MAXIM STAFFING SOLUTIONS

By:  _____

Print Name: Bryant Moshong

Date: 11-5-2012

ANNASHAE CORPORATION

By: _____

Print Name: _____

Date: _____

FIRST CHOICE MEDICAL STAFFING OF OHIO, INC.

By: _____

Print Name: _____

Date: _____