

**AGREEMENT FOR DRUG, ALCOHOL,  
AND NICOTINE TESTING SERVICES PD 14-15.013**

**THIS AGREEMENT** is made this 10<sup>th</sup> day of February, 2015 (hereinafter referred to as "Effective Date"), by and between Escambia County, Florida, a political subdivision of the State of Florida (hereinafter referred to as "County"), whose mailing address is 221 Palafox Place, Pensacola, Florida 32502, and Drug Free Workplaces, USA, LLC (hereinafter referred to as "Contractor"), a Florida Limited Liability Company authorized to conduct business in the State of Florida, whose federal identification number is 59-3173782, and whose principal address is 27 West Romana Street, Pensacola, FL 32502.

**WITNESSETH:**

**WHEREAS**, on December 1, 2014, the County issued an Invitation to Bidders (PD 14-15.013) seeking drug, alcohol, and nicotine testing services; and

**WHEREAS**, the Contractor was the most responsive and responsible bidder proposing to provide such services; and

**WHEREAS**, the County desires to enter into an agreement with the Contractor for the provision of such services as set forth herein.

**NOW, THEREFORE**, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the County and the Contractor agree as follows:

1. Recitals. The recitals contained in the preamble of this Agreement are declared to be true and correct and are hereby incorporated into this Agreement.
2. Term. This Agreement shall commence as of the effective date and continue for a term of three (3) years. Upon mutual agreement of the parties, the Agreement may be renewed for two additional one (1) year terms.

The County may unilaterally extend this Agreement up to an additional six (6) months. The County shall provide written notice of the desire to extend the agreement no later than sixty (60) days prior to the expiration of the initial term. The total duration of this agreement shall not exceed the duration of five (5) years and six (6) months.

3. Scope. Contractor agrees to perform in accordance with the terms and conditions as outlined in Escambia County's Invitation to Bidders for Drug, Alcohol, and Nicotine Testing Services, Specification No. P.D. 14-15.013, attached hereto as **Exhibit "A"**. In the event of a conflict between the terms of the Exhibit referenced above and this Agreement, the terms of this Agreement shall prevail.

4. Compensation. In exchange for Contractor's provision of the scope of services referenced in Section 3 above, County shall pay Contractor in accordance with the Bid Form, dated December 11, 2014, and the Offer Form, dated December 23, 2014, attached hereto as **Exhibit "B"**.

5. Method of Payment/Billing. Contractor may request payment from County by the submission of a properly executed original invoice. Invoices shall reflect the amount due and owing for the value of items received and accepted with appropriate supporting documentation. The County agrees it shall make its best efforts to pay Contractor within thirty (30) days of receipt and approval of Contractor's invoice. Payments under this agreement and interest on any late payments shall be governed by and construed in accordance with the Florida Prompt Payment Act, §§218.70, et seq., Florida Statutes, as amended.

6. Termination. This Agreement may be terminated for cause or convenience by the County upon providing thirty (30) days written notice to Contractor. This Agreement may be terminated for cause by the Contractor upon providing ninety (90) days written notice to the County. In the event of termination by either party as provided herein, the Contractor shall be paid for services provided through the date of termination.

7. Indemnification. Contractor shall indemnify, defend, and hold harmless Escambia County, and its officers, directors, employees, and affiliates, from and against any and all liability, loss, cost, or expense including, without limitation, reasonable attorney's fees, arising out of or in connection with the negligence, recklessness, or wrongful misconduct of Contractor in the performance of its duties and obligations pursuant to this Agreement. The parties understand and agree that such indemnification by the Contractor relating to any matter, which is the subject of this Agreement, shall extend throughout the term of this Agreement and any statutes of limitation thereafter. The Contractor's obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance. The Contractor agrees to pay on behalf of Escambia County, as well as provide a legal defense for the County, both of which will be done only if and when requested by the County, for all claims relating to this Agreement. Such payment on the behalf of the County shall be in addition to any and all other legal remedies available to the County and shall not be considered to be the County's exclusive remedy.

8. Insurance. The Contractor is required to carry the following insurance:

(a) Commercial General Liability, Form CG1, with \$1,000,000 per occurrence. Excess or umbrella insurance may be purchased to make up the difference, if any, between the policy limits of the underlying policies.

(b) Business Automobile Liability with \$1,000,000 per occurrence minimum combined single limits for all hired, owned, and non-owned vehicles.

(c) Professional Liability with \$1,000,000 per occurrence minimum limits.

(d) Florida statutory Workers' Compensation.

(e) It is understood and agreed by the parties that in the event that the Contractor consists of a joint venture, partnership, or other association of professional or business firms, each such firm shall be required to individually carry the above cited coverages.

(f) Contractor agrees all liability coverage shall be through carriers admitted to do business in the State of Florida. Carriers shall be "A" or other Secure Best Rating with a minimum financial size of "VII", according to the A.M. Best Key Rating Guide Latest Edition. The insurance policies shall be endorsed to provide at least 30 days advance notice of cancellation, nonrenewal or adverse change. Such notices shall be mailed to Escambia County, Joseph Pillitary, Jr., Purchasing Coordinator, Post Office Box 1591, Pensacola, Florida 32597.

(g) The Board of County Commissioners and Escambia County shall be endorsed as "additional insureds" on all liability policies (except Workers' Compensation and professional liability). Certificates of Insurance shall be provided to Joseph Pillitary, Jr., Purchasing Coordinator, Post Office Box 1591, Pensacola, Florida 32597 prior to commencement of work hereunder. Certificates shall reflect the additional insured status of Escambia County. The Board of County Commissioners and Escambia County shall also be the certificate holders.

9. Independent Contractor Status. In the performance of this Agreement hereunder, Contractor is an independent contractor. Contractor shall not hold itself out as an employee, agent or servant of the County; and Contractor shall not have the power or authority to bind the County in any promise, agreement or representation, other than as specifically provided in this Agreement or as may be expressly provided hereafter in writing by an authorized official of the County.

10. Notice. Any notice, payment or other communication under this Agreement required hereunder or desired by the party giving such notice shall be given in writing and delivered by hand or through the instrumentality of certified mail of the United States Postal Service or private courier service, such as Federal Express. Unless otherwise notified in writing of a new address, notice shall be made to each party as follows:

To: Drug Free Workplaces, USA, LLC  
Attention: Carol J. Law  
27 West Romana Street  
Pensacola, Florida 32502

To: Escambia County  
Attention: County Administrator  
221 Palafox Place, Suite 420  
Pensacola, Florida 32502

Rejection, or other refusal by the addressee to accept, or the inability of the courier service or the United States Postal Service to deliver because of a changed address of which no notice was given, shall be deemed to be receipt of the notice sent. Any party shall have the right, from time to time, to change the address to which notices shall be sent by giving the other party at least ten (10) days prior notice of the address change.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue shall be in the County of Escambia.

12. Public Records. The Contractor acknowledges that this Agreement and any related financial records, audits, reports, plans correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes. In the event the Contractor fails to abide by the provisions of Chapter 119, Florida Statutes, the County may, without prejudice to any other right or remedy and after giving the Contractor, if any, seven days written notice, during which period the Contractor still fails to allow access to such documents, terminate the contract.

13. Entire Agreement. This Agreement contains the entire agreement between the parties and supersedes all prior oral or written agreements. Contractor acknowledges that it has not relied upon any statement, representation, prior or contemporaneous written or oral promises, agreements or warranties, except such as are expressed herein. The terms and conditions of this Agreement can only be amended in writing upon mutual agreement of the parties.

14. Compliance with Laws. Contractor agrees to comply with all federal, state and local laws, rules, policies, or guidelines related to the performance of this Agreement, including, but not limited to, all Occupational Safety and Health Administration (OSHA) requirements and the provisions of Chapter 442, Florida Statutes.

15. Assignment of Agreement. This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by Contractor without the prior written consent of the County. However, the Agreement shall run with the Escambia County Board of County Commissioners and its successors.

16. Miscellaneous. If any term or condition of this Agreement shall be invalid or unenforceable, the remainder of the terms and conditions of this Agreement shall remain in full force and effect. This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

17. Annual Appropriation. Pursuant to the requirements of Florida law and Article II of Chapter 46, Escambia County Code of Ordinances, the County's performance and

obligation to fund this Agreement shall be contingent upon an annual appropriation by the Escambia County Board of County Commissioners.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature:

Approved as to form and legal sufficiency.

By/Title: Alfred Aca  
Date: 1/8/15

COUNTY:  
BOARD OF COUNTY COMMISSIONERS  
ESCAMBIA COUNTY, FLORIDA

By: [Signature]  
Steven Barry, Chairman

ATTEST: PAM CHILDERS  
Clerk of the Circuit Court

Date: 1/22/2015

By: [Signature]  
Deputy Clerk  
(SEAL)  


BCC Approved: 01-22-2015

[Signature]  
Witness

CONTRACTOR: [Signature] DRUG FREE  
WORKPLACES, USA, LLC  
By: Carol J. Law, President

[Signature]  
Witness

Date: 1/15/15



**SCOPE OF WORK  
DRUG, ALCOHOL AND NICOTINE TESTING SERVICES**

The Provider agrees as follows:

1.1 To provide the County with their services for the purpose of complying with the rules issued by the Department of Transportation at 49 CFR Parts 382, 391, 392, and 40, in regard to drug and alcohol breath testing for current and prospective employees who operate commercial motor vehicles in the course of County employment and who are subject to commercial driver's license requirements.

1.2 To provide the County with their services for the purpose of compliance with the County's Substance Abuse Policy, Tobacco-Free Hiring Policy and Tobacco-Free Workplace Policy in regard to nicotine testing for current and prospective employees.

1.3 To maintain appropriate professional certification, e.g., Substance Abuse Program Administrators Association (SAPAA) Certification or similar certification. Additionally, medical review officers, collection site persons, breath alcohol technicians, substance abuse professionals, laboratories and evidential breath testing devices must meet and maintain the standards set forth in 49 CFR 40. (For additional information on SAPAA you can go to their web site at [www.sapaa.com](http://www.sapaa.com))

1.4 To remain current with Florida Legislation and comply with all federal, state and local ordinances, including but not limited to: (a) The Occupational Safety and Health Act, 29 CFR 1910, General Industry Standards; (b) Florida Statutes, Chapter 440, Workers' Compensation, particularly with respect to sections regarding the drug free work place; (c) Florida Administrative Code, Rules 38F and 38I; (d) Escambia County Substance Abuse Policy; (e) Escambia County Tobacco-Free Workplace Policy and (f) Escambia County Tobacco-Free Hiring Policy.

1.5 To be available for expert testimony in the event of legal challenges to the validity of results as requested by the County.

1.6 To be available to consult with the County's Human Resources Department and/or the County's Legal Department upon request.

1.7 To perform drug screens by emit with reflexive gas chromatography/mass spectrophotometer (GC/MS) confirmation of all positive test results. To perform alcohol testing as outlined in 49 CFR Part 40. The following drugs shall be included in the screening: amphetamines, cocaine, marijuana, opiates, and phencyclidine. Employees subject to the Florida Department of Law Enforcement (FDLE) requirements shall additionally be screened for barbiturates, benzodiazepines, and methaqualone. To perform the Health Professional Panel drug screens for employees when management believes there is reasonable suspicion of substance abuse and for post-accident purposes.

1.8 To perform random testing based on the following procedures: The County will send the names of the employees eligible for random drug, alcohol and nicotine testing. There are three selection pools to be maintained. One pool (DOT) has approximately 125 employees, the (Non-DOT) pool has approximately 930 and the nicotine pool has approximately 1380 employees.



The DOT pool will be submitted quarterly. The Non-DOT and nicotine pools will be submitted on a quarterly basis to the Provider. The Provider will enter the employees' names into their computer and the computer program will randomly select the employees that are to be tested. The DOT pool draws 50% for drug testing and 10% for alcohol testing. The pool draw is 2% for nicotine testing. The Non-DOT pool draws 50% for drug testing. There will be approximately 555 random drug tests per year and 20 alcohol tests per year. There will be approximately 112 nicotine tests per year. The Provider will handle the entire selection procedure.

1.9 To perform new-hire testing for employees who are in safety sensitive and special risk positions.

2.0 Set-up fees shall include initial set-up of a database of employees.

2.1 To perform all drug, alcohol and nicotine testing at the contractor's facility. Results are to be provided to the County within 2-3 working days after the test. The required times and days for drug and alcohol testing is twenty-four hours, seven days a week; but most are done Monday through Friday from 7:00 a.m. to 5:00 p.m. The required times and days for nicotine testing will be Monday through Friday from 7:00 a.m. to 5:00 p.m.

2.2 To provide a facility that shall be available for after hours testing for reasonable suspicion and post accident testing.

2.3 To make available the services of a Medical Review Officer (MRO), who is a licensed doctor of medicine with knowledge of substance abuse disorders, laboratory testing procedures and chain of custody collection procedures. The MRO will verify test results and possess the necessary medical training to interpret and evaluate an individual's positive test result in relation to that person's medical history or any other relevant biomedical information.

2.4 To make available the services of the MRO who shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. The MRO shall not disclose to the County or any third party medical information provided by a tested individual to the MRO unless permitted by regulation or, in the MRO's reasonable judgment the information indicates that performance by the individual could pose a significant safety risk.

2.5 To ensure all results and records received by the Provider will be kept on file as required by law. Results of the testing program and the test cutoff levels for all employees will be reported to designated management representatives via electronic mail.

2.6 To provide at least one on-site supervisory workshop twice a year. This training should last at least two, but no more than four hours. The Florida Department of Transportation (FDOT) requires supervisors to be trained at least 60 minutes on alcohol misuse and receive at least an additional 60 minutes of training on controlled substance use. In consultation with the Human Resources Department, supervisors will use this training to assist them in determining whether or not reasonable suspicion exists. The FDOT training will be held twice annually and shall include the physical behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. The County will designate additional training topics.

2.7 To provide scheduled on-site supervisory workshops and the on-site consultations with the Human Resources Director and/or County Attorney.

**2.8 To provide educational materials that shall be printed pamphlets covering the topics of Substance Abuse and Drug Testing.**

**2.9 Both parties to this Contract are independent contractors, and nothing contained herein shall be construed to place the parties in the relationship of partners, joint venturer, principal-agent or employer-employee, and neither party shall have the power to bind the other whatsoever beyond the terms of this Contract.**

**3.0 This Contract shall be for three (3) years, unless terminated in accordance with the Special Terms and Conditions.**

**3.1 If during the term of this Contract there is a significant change in the requirements as a result of regulatory or statutory changes, both parties agree to renegotiate the services and fees provided herein.**

**3.2 The parties hereto agree the terms hereof are to be construed according to Florida law and that venue for any action arising hereunder shall be appropriate in Escambia County, Florida, where the services provided for herein shall be deemed to be rendered.**

**3.3 Pursuant to the requirements of Florida Law and Article II of Chapter 46 of the Code of Ordinances of Escambia County, the County's performance and obligations to fund this Contract shall be contingent on an annual appropriation by Escambia County Board of County Commissioners.**

**3.4 The Provider agrees to invoice the County for services provided under this Contract on a monthly basis.**

**3.5 The Provider shall submit two (2) copies of its monthly invoice to the County on or before the 25<sup>th</sup> day of each month for work performed during the previous month. The invoice shall be itemized and on a form approved by the Clerk of the Circuit Court's Finance Office.**

**3.6 That the County shall, within thirty (30) days after approval of the invoice, pay the Provider the amounts approved.**

**3.7 That the Provider acknowledges that this Contract and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event the Provider fails to abide by the provisions of Chapter 119, Florida Statutes, the County may, without prejudice to any right or remedy and after giving the Provider and its surety, if any, seven (7) days written notice, during which period the provider still fails to allow access to such documents, terminate the employment of the Provider, in such case, the Provider shall not be entitled to receive any further payment. Reasonable terminal expenses incurred by the County may be deducted from any payments left owing the Provider (excluding monies owed the Provider for subcontractor work).**

**3.8 Neither the Provider nor any of its employees, agents, and representatives shall offer or give to an officer, official, or employee of the County, gifts, entertainment, payments, loans, or other gratuities. The Provider acknowledges knowledge of the State of Florida's ethics statutes and to the extent applicable to the Provider, the Provider agrees to abide with such statutes.**

3.9 The Provider hereby certifies that it will completely disclose to the County all facts bearing upon any possible conflicts, direct or indirect, with its performance which it believes that any officer, employee or agent of the Provider now has or will have. Said disclosure shall be made by the Provider contemporaneously with the execution of this Contract and at any time thereafter that such facts become known to the Provider. The Provider at all times shall perform its obligations under this Contract in a manner consistent with the best interests of the County. Failures to abide by this section shall result in the immediate termination of this Contract.

4.0 All other provisions, which, by their inherent character, sense, and context are intended to survive termination of the Contract, and shall survive the termination of the Contract.

4.1 The invalidity or non-enforceability of any portion or provision of this Contract shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Contract and the balance hereof shall be construed and enforced as if this Contract did not contain such invalid or unenforceable portion or provision.

4.2 The Provider shall keep fully informed regarding and shall fully and timely comply with all current laws and future laws that may affect those engaged or employed in the performance of this Contract. Without limiting the generality of the foregoing, the Provider shall observe all rules and regulations, of federal, state, and local officials relating to the subject matter of this Contract.

4.3 The failure of the Provider or the County to insist upon the strict performance of the terms, and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either party's right to thereafter enforce the same in accordance with this Contract.

**BID FORM**  
**Specification Number PD 14-15.013**  
**DRUG, ALCOHOL AND NICOTINE TESTING SERVICES**

Board of County Commissioners  
 Escambia County, Florida  
 Pensacola, Florida 32502

Date: 12/11/2014

Commissioners:

In accordance with your "Invitation for Bids" and "Instructions to Bidders" for Drug, Alcohol and Nicotine Testing as described and listed in this Invitation for Bids, and subject to all conditions thereof, I, undersigned, hereby propose to provide at the following price:

<b>DESCRIPTION</b>	<b>PRICE</b>
Testing – Includes collection, initial test, confirmation, medical review and reporting	\$ <u>28.60</u> per test (alcohol)
	\$ <u>28.60</u> per test (drug)
	\$ <u>28.60</u> per test (drug – FDLE requirements)
	\$ <u>12.00</u> per test (nicotine, if performed in conjunction with drug testing)
	\$ <u>19.60</u> per test (nicotine, if performed in individually)

**Random Selection Procedure:**

Set-up Fee	<u>\$ 0.00</u>
Maintenance Fee	<u>\$ 0.00</u>
Education Materials (Approximately 1000 employees)	<u>\$ 0.00</u>
On-Site Supervisory Workshops (Two Annually) (To include travel and related expenses)	<u>\$ 100.00</u> Per Workshop
Workshop Training Materials (materials provided for all attendees)	<u>\$ 0.00</u>
BCC Policy Reviews and Updates (annually or as requested)	<u>\$ 0.00</u>
Consulting (annually and/or as requested with Human Resources and/or County Attorney)	<u>\$0.00</u>
Deposition and Legal Testimony (To include travel and related expenses)	<u>\$ 800.00/ per day</u>
SAPA Certification or Similar Certification Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	

Please list Certification: SAPACC

Name of Medical Review Officer: Dr. Morris Simhachalam, AAMRO



**Bid Form Continued**  
**14-15.013**

24-hour contact telephone number : (850) 712-7486 ProHealth, 3298 Summit #33, Pensacola, FL 32503

Testing Location(s) (within Escambia County) LabCorp collection sites included in Bid pricing.

**ALL TESTING**

Lab Corps. Mon-Fri 7:30 am – 4:00 pm  
3437 N. 12<sup>th</sup> Ave.  
Pensacola, FL 32503  
Telephone: (850) 434-0345 Fax: (850) 438-2184  
Per existing contract 3<sup>rd</sup> party collection fees are paid by Escambia Co.

**POST ACCIDENT TESTING**

Sacred Heart Urgent Care, 8:00 am – 8:00 pm  
6665 Pensacola Blvd.  
Pensacola, FL 32505  
Telephone: (850) 416-2000

Baptist Occupational Health 8:00 am – 6:00 pm  
9400 University Parkway  
Pensacola, FL 32514  
Telephone: (850) 208-6400, Fax: (850) 208-6409

**ALL TESTING**

Lab Corps. Mon-Fri 7:30 am – 4:00 pm  
7140 N. 9<sup>th</sup> Ave.  
Pensacola, FL 32504  
Telephone: (850) 476-7816 Fax: (850) 479-2319

**POST ACCIDENT TESTING**

ProHealth After 8:00 pm  
3298 Summit #33  
Pensacola, FL 32503  
Telephone: (850) 712-7486  
Must Call First

(PLEASE TYPE INFORMATION BELOW)  
SEAL IF BID IS BY CORPORATION

State of Florida Department of State Certificate of Authority  
Document Number: P92000000541

Occupational License No. Pensacola - 120405  
Escambia - 51988

Florida DBPR Contractor's License, Certification and/or  
Registration No. N/A

Type of Contractor's License, Certification and/or  
Registration N/A

Expiration Date: N/A

Terms of Payment  
(Check one) Net 30 Days  2% 10<sup>th</sup> Prox

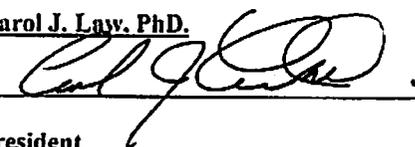
Will your company accept Escambia County Purchasing  
Cards? Yes  No

Will your company accept Escambia County Direct  
Payment Vouchers? Yes  No

County Permits/Fees required for this project: N/A

Bidder: Drug Free Workplaces, Inc.

By: Carol J. Law, PhD.

Signature: 

Title: President  
Address: 27 W. Romana St.,  
Pensacola, FL 32502

Person to contact concerning this bid:  
Carol J. Law, PhD.  
Phone/Toll Free/Fax#: Phone (850) 434-3782  
Toll Free 1-800-430-3782. Fax (850) 434-8244  
E-Mail Address: LAW@drugfreeworkplaces.com  
Home Page Address: www.drugfreeworkplaces.com

Person to contact for emergency service:  
Carol J. Law, PhD.  
Phone/Cell/Pager #: Phone (850) 434-3782  
Cell (850) 516-5195

Person to contact for disaster service:  
Carol J. Law, PhD.  
Home Address: 27 Mar Vista Cir.  
Pensacola, FL 32507  
Home Phone/Cell/Pager #: Home (850) 456-2062  
Cell (850) 516-5195

**OFFER FORM**  
**IN ACCORDANCE WITH ORDINANCE 2013-43, Volume 1, Chapter 46, Article 11,**  
**Division 3, Section 46-11**  
**LOCAL PREFERENCE IN THE SEALED BID PROCESS**

**For**

**Specification Number PD 14-15.013**  
**DRUG, ALCOHOL AND NICOTINE TESTING SERVICES**

Board of County Commissioners  
Escambia County, Florida  
Pensacola, Florida 32502

Date: 12/23/14

Commissioners:

In accordance with your "Local Preference in the Sealed Bid Process" and "Instructions to Bidders" for Drug, Alcohol and Nicotine Testing as described and listed in the Invitation to Bid PD14-15.013 Drug, Alcohol and Nicotine Services and subject to all conditions thereof, I, undersigned, hereby offer the following bid amounts in order to match the low bid amount of \$22,960 annual cost.

**DESCRIPTION**

**PRICE**

Testing – Includes collection, initial test, confirmation, medical review and reporting

\$ 27.45 per test  
(drug)  
\$ 27.45 per test  
(drug - FDLE requirements)