

Browning Public Schools
Board Agenda Request
Meeting to Be Held: January 31, 2017



Recognition: Students Staff Parents

Information: Building Report Old Business Superintendent's Report

Action: Resignation Hiring Contract Service Agreements
 Travel Out-of-State Travel In State Approvals
 Termination Legal Matters Other:

 This action request pertains to Elementary (only) High School/District Wide

Date: 1/23/18

To: **Corrina Hall Guardipee**
 Superintendent

From: Tony Wagner
 Title: Athletic Director

Subject: **Testing With Integrity - Student Activities Contract**

Description: Tony Wagner, Director of Student Activities is recommending approval of a contract with William P. Hanley (DBA: Testing With Integrity) for student activities drug screenings. This contract does not prevent the district from using other drug screening companies it just sets the fee structure if we were to use Testing With Integrity after January 1, 2018.

Financial Impact: \$TBD based on number of tests

Funding Source (Budget/grant, etc.): Student Activities (100% - 226 60 720 3500 330)

Attachment(s): Agreement For Drug and Alcohol Program Administration 2018

Comments: _____

Board Action: N/A (Info) Approved Denied Tabled to: _____

AGREEMENT FOR DRUG AND ALCOHOL PROGRAM ADMINISTRATION FISCAL YEAR 2018

This agreement made and entered into on 1/1/2018, between William P. Hanley (Testing With Integrity), P.O. Box 633, Fairfield, Montana 59436 hereinafter referred to as "**Company**" and Browning School District (Students), Browning, Montana hereinafter referred to as "**Client**".

PURPOSE OF ENGAGEMENT

Company will administer clients' drug and alcohol testing program for all students covered by regulation and non-covered students.

In consideration of the mutual obligations hereunder, the parties agree as follows;

Company agrees to provide outside administrative services for clients drug testing which includes the following elements:

Development of random selection and School notification protocols. Random selection will be at the rate of _____ per selected sport (e.g. Football, Volleyball etc.).

Arrange for random drug testing and random breath alcohol testing.

Maintain random testing pool participants/ volunteers.

Maintain random selection pools and maintain all random pool records

Provide client with its results within One to Three business days of Clients request.

Maintain record of all drug tests.

Provide Client with regulatory updates affecting the program and providing Medical Review Officer Services.

Above listed services will adhere to 49 CFR 40 Guidelines, Rules and Regulations including Part 382 and Part 655– Controlled Substances And Alcohol Use Testing et. al., and Drug Free Workplace Act of 1988 and 1989.

CLIENTS OBLIGATIONS

Identify all of its Students subject to drug and alcohol testing.

Distribute information regarding Clients Students policy to all affected Students.

Adhere to drug and alcohol policy and procedures manual.

Testing With Integrity, will indemnify, defend and hold harmless Client, and members of the Clients Board of Trustees, officers, students, agents and representatives, against any claim, whether or not it ripens to an administrative proceedings or court action, including any judgement, award and attorney fees and costs, by any third party arising out of or relating to the acts or omissions of Testing With Integrity and its directors, officers, students, agents and representatives. Such defense of Client By Testing With Integrity shall be solely at Testing With Integrity's expense by counsel chosen by client except when Client fails to meet its specific obligations and responsibilities as outlined by established Policy and Procedures for a Controlled Substance and Alcohol Testing Program.

RELATIONSHIP OF THE PARTIES

Testing With Integrity, is an independent contractor, and this agreement does not create a relationship of general agent, servant, employee, partnership, joint venture or association.

Testing With Integrity, shall report to client the results of tests conducted by Testing With Integrity, in the manner requested by the Client. Client authorizes Testing With Integrity, to report test results directly to the Department of Transportation State of Montana and the Federal Department of Transportation.

RESOLUTION OF DISPUTES

Any controversy or claim arising out of or relating to this contract, the breach thereof, or the performance or implementation of the terms and provisions therein, shall be settled by arbitration in accordance with the rules of American Arbitration Association. All arbitration hearings hereunder, and all judicial proceedings to enforce any of the provisions hereof, shall take place at a site mutual agreed to by both named parties. The costs and expenses of arbitration, including fees of the arbitrators, shall be borne by the losing party or in such proportions as the arbitrators determine.

TERMS OF PAYMENT

The pricing will be guaranteed for a period of one (1) year from the acceptance date. Either party may cancel the agreement by giving the other party a ninety (90) day written notice. Parties agree not to pay any invoice for collection, laboratory, or Medical Review Officer cost, not billed by Testing With Integrity. Client agrees that Testing With Integrity will be paid with in fifteen (15) days of the invoice date. A late payment charge of one and half percent ($\frac{1}{2}\%$) per month shall be imposed if the payment is not received within thirty (30) days from the invoice date. Service other than those set forth in this Agreement will be billed at additional rates subject to Agreement of the parties. Renewal Invoice for TPA services (\$200.00) includes Registration in Random Consortium, all administration support.

Cost of testing is as follows: Instant Kits 5-12 panel @ \$16.00 each (Pre-season) and \$19.00 each (Random selection). Non-DOT confirmation of all presumptive positive results @ \$32.00 (includes cost of kit). If there is MRO involvement total cost will \$50.00 Includes kit, lab and MRO: Breath Alcohol Testing on or off site \$35.00 per test includes confirmation. There is also a \$60 set up fee for mobile testing. After hours collection (6P.M. to 6A.M.) there will be a \$75.00 additional fee.

Drug tests under this Agreement (49 CFR 40 part 382 et. al. Governing Authority, DOT Split Sample only and Breath Alcohol Testing (EBT)) includes, initial screening, Gas Chromatography/Mass Spectrometry (GCMS), Confirmation for 5 Expanded Categories of drugs including Amphetamines, Marijuana (THC), Cocaine, Opiates and Phencyclidine (PCP), MDMA, 6-Monoacetylmorphine, and MDEA. Federally Certified Lab to be used under this agreement will be Pacific Toxicology Laboratories, MRO (Dr. Neil Dash, Doctors Review Services) and Certified Collection Sites selected by Testing With Integrity. Non DOT Testing will also be facilitated in accordance with the aforementioned rules and regulations.

NOTICES

All notices which may be given hereunder shall be in writing and may be delivered personally to a duly-authorized representative of Company or of Client, or by mail postage prepaid, addressed to Company, Testing With Integrity to Client at the address set forth below in this Agreement. Either party may change its address for receipt of notices by giving notice of such change to the other party in this manner.

MISCELLANEOUS PROVISIONS

The term of this Agreement will be one year from the date signed by Client below. The provisions under "Indemnification Obligations" will survive the end of the term of this Agreement.

This Agreement is not exclusive agreement for testing by Testing With Integrity. Client may elect, whether during or after the term of this Agreement, to contract with other service providers for testing services.

This Agreement contains all of the terms and conditions of the parties regarding the subject matter of this Agreement, and supercedes any prior agreement, whether oral or written. This Agreement may only be modified in writing, signed by an authorized representative of Client and Testing With Integrity.

The invalidity of any term or condition of this Agreement shall not affect the validity of any of the remaining terms or conditions, and to the extent, the terms and conditions of this Agreement are severable.

WAIVER

The waiver of either party to one or more defaults on the part of the other shall not be construed

to operate as a waiver of any subsequent defaults.

GOVERNING LAW

This Agreement shall be governed in all aspects by the Federal Laws and the Laws of the State of Montana.

Testing With Integrity

By William P. Hanley

Title CEO/owner

Date 11/27/2017

Browning School District (Students) Browning, Montana (Client)

By _____

Title _____

Date _____