

OFFICIAL RECORD
Requested By:
DC/CLERKS OFFICE

Assessor's Parcel Number: N/A

Date: AUGUST 12, 2009

Recording Requested By:

Name: CAROL, CLERK'S OFFICE

Address: _____

City/State/Zip: _____

Real Property Transfer Tax: \$ N/A

Douglas County - NV
Karen Ellison - Recorder
Page: 1 Of 11 Fee: 0.00
BK-0809 PG- 2795 RPTT: 0.00



CONTRACT #2009.229
(Title of Document)



NO. 2009.229

INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

2009 AUG 12 AM 11:37

A Contract Between the State of Nevada
Acting By and Through Its

TED THUAN
CLERK
[Signature]
DEPUTY

Department of Health and Human Services
Division of Child and Family Services
("Division")
4126 Technology Way, 3rd Floor
Carson City, Nevada 89706
(775) 684-4400
Fax: (775) 684-4455

and

Douglas County
For and on behalf of China Spring Youth Camp
("Provider")
P. O. Box 218
Minden, Nevada 89423
(775) 265-5350
Fax: (775) 265-7159

WHEREAS, NRS 277.180 authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform; and

WHEREAS, it is deemed that the services of Douglas County hereinafter set forth are both necessary to the Division of Child and Family Services and in the best interests of the State of Nevada;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. **DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
3. **CONTRACT TERM.** This Contract shall be effective upon approval to July 1, 2009, to June 30, 2011 unless sooner terminated by either party as set forth in this Contract.
4. **TERMINATION.** This Contract may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until 30 days after a party has served written notice upon the other party. This Contract may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Contract shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Contract is withdrawn, limited, or impaired.
5. **NOTICE.** All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.

6. INCORPORATED DOCUMENTS. The parties agree that the services to be performed shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence:

- ATTACHMENT A: SCOPE OF WORK
- ATTACHMENT B: FISCAL PROCEDURES
- ATTACHMENT C: CONFIDENTIALITY AGREEMENT

7. CONSIDERATION. Douglas County agrees to provide the services set forth in paragraph (6) at a cost of \$ *see below per *see below (state the exact cost or hourly, daily, or weekly rate exclusive of travel or per diem expenses) with the total Contract or installments payable: quarterly in advance for each quarter upon receipt of an invoice submitted by the Provider and subject to verification by the Division as to the availability of funds for both the State of Nevada share appropriated by the legislature and receipt of the participating Counties shares paid to the Division by each of the Nevada Counties except for Clark County, not exceeding \$ 3,160,788 in fiscal year 2010 and \$3,106,788 in fiscal year 2011 as established by the 2009 legislature to a maximum of \$6,321,576. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

China Spring:

*FY 2010 \$ 537,857.00 per quarter for 40 placements per month, not to exceed \$ 2,151,428 annually

*FY 2011 \$ 537,857.00 per quarter for 40 placements per month, not to exceed \$ 2,151,428 annually

Aurora Pines:

*FY 2010 \$ 252,340.00 per quarter for 16 placements per month, not to exceed \$ 1,009,360 annually

*FY 2011 \$ 252,340.00 per quarter for 16 placements per month, not to exceed \$ 1,009,360 annually

8. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations expressly provided.

9. INSPECTION & AUDIT.

a. Books and Records. Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. Inspection & Audit. Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.

c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three years and for five years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

10. BREACH; REMEDIES. Failure of either party to perform any obligation of this Contract shall be deemed a breach. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for State-employed attorneys.

11. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds which have been appropriated for payment under this Contract, but not yet paid, for the fiscal year budget in existence at the time of the breach.

12. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or

storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

13. INDEMNIFICATION.

a. To the fullest extent of limited liability as set forth in paragraph (11) of this Contract, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.

b. The indemnification obligation under this paragraph is conditioned upon receipt of written notice by the indemnifying party within 30 days of the indemnified party's actual notice of any actual or pending claim or cause of action. The indemnifying party shall not be liable to hold harmless any attorneys' fees and costs for the indemnified party's chosen right to participate with legal counsel.

14. INDEPENDENT PUBLIC AGENCIES. The parties are associated with each other only for the purposes and to the extent set forth in this Contract, and in respect to performance of services pursuant to this Contract, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

15. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

16. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

17. ASSIGNMENT. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Contract without the prior written consent of the other party.

18. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Contract shall be the joint property of both parties.

19. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

20. CONFIDENTIALITY. Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Contract.

21. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract and that the parties are authorized by law to perform the services set forth in paragraph (6).

22. GOVERNING LAW; JURISDICTION. This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Contract.

23. ENTIRE AGREEMENT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no

modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto, approved by the Office of the Attorney General.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

State of Nevada, Department of Health and Human Service, Division of Child and Family Services
Public Agency #1

Diane J. Comeaux for 5/15/09 Administrator, Division of Child and Family Services
Signature - Diane J. Comeaux Date Title

for M. DeFosse 5/18/09 Director, Department of Health & Human Services
Signature - Michael J. Willden Date Title

Douglas County
Public Agency #2

Nancy McDermid May 7, 2009 Chairman
Signature - Douglas County Commissioner Date Title

David Pull
Public Agency #2 Signature Date Title

Stacey Wheeler 9-23-09 DIRECTOR
Public Agency #3 Signature Date Title

Stephanie Day for APPROVED BY BOARD OF EXAMINERS
Signature - Nevada State Board of Examiners

Approved as to form by:

On 6-17-09 (Date)

Karen P. Deh On 5/18/2009
Deputy Attorney General for Attorney General, State of Nevada (Date)

ATTACHMENT A

SCOPE OF WORK

Provider will provide residential living care for boys and girls who have been adjudicated delinquent and committed by the Juvenile Division of the District Court to China Spring Youth Camp or Aurora Pines Girls Facility, as space is available. The availability of space is to be reasonably determined by the Provider.

In the provision of residential living care for committed boys and girls, Douglas County agrees to the followings:

- China Spring and Aurora Pines will submit monthly population reports to the Division.
- Douglas County and the Division agree that no other compensation shall be paid, except as set out herein.
- Douglas County shall be responsible for damage to property and personal injury resulting from the negligence or misconduct of Douglas County in the manner or method of performing the above-described work for the duration of this contract.
- The State of Nevada or its agent may audit records of placements and expenditures at China Spring Youth Camp and Aurora Pines at any time during a five-year period commencing with the beginning date of this Interlocal contract.

ATTACHMENT B

FISCAL PROCEDURES

The Provider shall submit quarterly billings for services to the Division of Child and Family Services, 4126 Technology Way, 3rd Floor, Carson City, NV 89701

COPY



ATTACHMENT C CONFIDENTIALITY AGREEMENT

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

BUSINESS ASSOCIATE ADDENDUM

BETWEEN

THE DIVISION OF CHILD AND FAMILY SERVICES (DCFS)
hereinafter referred to as "Covered Entity"

and

Douglas County
hereinafter referred to as "Business Associate"

This ADDENDUM is entered into between Covered Entity and Business Associate, effective as of July 1, 2009.

WHEREAS, Sections 261 through 264 of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, known as "the Administrative Simplification provisions," direct the Department of Health and Human Services to develop standards to protect the security, confidentiality, and integrity of health information; and

WHEREAS, pursuant to the Administrative Simplification provisions, the Secretary of Health and Human Services has issued regulations modifying 45 CFR Parts 160 and 164 (the "HIPAA Security and Privacy Rule"); and

WHEREAS, the Covered Entity and the Business Associate have entered into this agreement whereby Business Associate will provide certain services to Covered Entity, and, pursuant to such agreement, Business Associate may be considered a "business associate" of Covered Entity as defined in the HIPAA Security and Privacy Rule; and

WHEREAS, Business Associate may have access to Protected Health Information and Electronic Protected Health Information in fulfilling its responsibilities under such arrangement;

THEREFORE, the Covered Entity and Business Associate in order to address the requirements of the HIPAA Security and Privacy Rule agree as follows:

I. **DEFINITIONS**

The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear.

1. **Contract** shall refer to this Addendum and that particular Contract to which this Addendum is made a part.
2. **Business Associate** shall mean [NAME OF ORGANIZATION WITH ACCESS AND/OR CREATES, RECEIVES, MAINTAINS, OR TRANSMITS PHI/ePHI].
3. **Covered Entity** shall mean DCFS, as the entity providing the PHI/ePHI and any other entity so defined by 45 C.F.R. 160 and 164.
4. **Electronic Protected Health Information (ePHI)** shall mean Protected Health Information that is transmitted by electronic media (as defined in the HIPAA Security and Privacy Rule) or maintained in electronic media.
5. **Individual** is defined by 45 C.F.R. §164.301 and shall include a person who qualifies as a personal representative per 45 C.F.R. 164.502(g).



6. **Parties** shall mean BUSINESS ASSOCIATE and DCFS.
7. **Privacy Rule** shall mean the Code of Federal Regulations ("C.F.R.") at Title 45, Sections 160 and 164.
8. **Protected Health Information ("PHI")** shall have the same meaning as defined in 45 C.F.R. 160.103.
9. **Required by Law** shall mean a mandate contained in law that compels a use or disclosure of PHI/ePHI.
10. **Secretary** shall mean the Secretary of the Department of Health and Human Services ("HHS") or the Secretary's designee.
11. **Security Rule** effective April 20, 2005 shall mean the Code of Federal Regulations ("C.F.R.") at Title 45, Sections 160 and 164.

II. OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

1. Business Associate agrees to not use or disclose Protected Health Information (PHI/ePHI) other than as permitted by this Contract or as Required by Law.
2. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided by this Addendum.
3. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information (PHI/ePHI) by Business Associate in violation of the requirements of this Addendum or either of the HIPAA rules.
4. Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information (PHI/ePHI) not provided for by this Addendum of which it becomes aware.
5. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information (PHI/ePHI) received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Addendum to Business Associate with respect to such information.
6. Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner as set forth in the contract's Inspection and Audit provisions, to Protected Health Information (PHI/ePHI) in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.
7. Business Associate agrees to make any amendments to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual, and in the time and manner as mutually agreed between the parties.
8. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, available to the Covered Entity, or the Secretary, in a time and manner set forth by the Covered Entity or designated by the Secretary, for the purpose of the Secretary determining Covered Entity's compliance with the Privacy Rule and Security Rule. Business Associate will maintain documentation as required whether written or electronic in accordance with 45 CFR 164.105.
9. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual in accordance with 45 CFR 164.528.
10. Business Associate agrees to provide to Covered Entity or an Individual, in time and manner as set forth in the contract's Inspection and Audit provisions, information collected in accordance with the previous section of this Addendum, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
11. Business Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI it creates, receives, maintains, stores, or transmits on behalf of the Covered Entity.
12. Business Associate agrees to promptly report any breaches of privacy or security to the other party. Upon request, details shall be provided to include date of the incident, scope of the incident and actions taken to prevent reoccurrence.

- 13. Business Associate agrees to ensure that any agent, including any subcontractor to whom it provides ePHI, agrees in writing, to implement reasonable and appropriate safeguards. In addition, Business Associate agrees to take reasonable steps to ensure its employees' actions or omissions do not cause Business Associate to breach the terms of this Addendum.

III. PERMITTED USE AND DISCLOSURES BY BUSINESS ASSOCIATE

General Use and Disclosure Provisions

- 1. Except as otherwise limited in this Addendum, the Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- 2. Except as otherwise limited in this Addendum, Business Associate may use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- 3. Except as otherwise limited by this Addendum, Business Associate may disclose Protected Health Information for the proper management and administration of Business Associate, provided the disclosures are:
 - a. Required by Law, or
 - b. Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and The person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- 4. Except as otherwise limited by this Addendum, Business Associate may use Protected Health Information to provide Data Aggregation services for Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).
- 5. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

IV. OBLIGATIONS OF COVERED ENTITY

- 1. Covered Entity shall notify Business Associate of any limitations in its Notice of Privacy Practices in accordance with 45 CFR 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.
- 2. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- 3. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that (Covered Entity) has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

V. PERMISSABLE REQUESTS BY COVERED ENTITY

Except in the event of lawful data aggregation or management and administrative activities, Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

VI. TERM AND TERMINATION

- 1. TERM:
The Term of this Addendum shall extend beyond the termination of the contract and shall terminate when all of the Protected Health Information (PHI/ePHI) provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed

- or returned to Covered Entity or if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination.
2. **TERMINATION FOR BREACH:**
Business Associate agrees that DCFS may immediately terminate contract if DCFS determines that Business Associate has violated a material term of this Addendum.
 3. **EFFECT OF TERMINATION:**
 - a. Except as provided in paragraph (b) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from (Covered Entity), or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - b. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon a mutual determination that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Addendum to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

MISCELLANEOUS:

1. **AMENDMENT:** The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for Covered Entity to comply with all the requirements and the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191.
2. **DEFINITION:** The "act" shall include, the Privacy Rule, the Security Rule effective April 20, 2005, and ANY and ALL other rules and/or amendments to the act that may be forthcoming.
3. **SURVIVAL:** The respective rights and obligations of Business Associate under EFFECT OF TERMINATION of this Addendum shall survive the termination of this Addendum.
4. **INTERPRETATION:** Any ambiguity in this Addendum shall be resolved to permit Covered Entity to comply with the Privacy Rule and Security Rule.

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and on record in my office.

DATE: Aug 12, 2009
Teresa Clerk of the 9th Judicial District Court
of the State of Nevada, in and for the County of Douglas.
By Paul M. [Signature] Deputy