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**OFFICIAL RECORD**

Requested By:

DOUGLAS COUNTY/JAIL

ADMINISTRATION

Douglas County - NV  
Karen Ellison - Recorder

Page: 1 Of 11 Fee: 0.00  
BK-0612 PG- 6157 RPTT: # 0



Assessor's Parcel Number: N/A

Date: JUNE 27, 2012

Recording Requested By:

Name: KIM O'HAIR, JAIL ADMINISTRATION

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Real Property Transfer Tax: \$ N/A

CONTRACT #2012.138

(Title of Document)

2012.138

2012 JUN 27 AM 9:21

# CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

A CONTRACT FOR PROFESSIONAL SERVICES BETWEEN

**DOUGLAS COUNTY**  
AND  
**JOSEPH E. McELLISTREM, PHD**



WHEREAS, Douglas County, a political subdivision of the State of Nevada, from time to time requires the services of independent contractors; and

WHEREAS, it is deemed that the services of Contractor herein specified are both necessary and desirable and in the best interests of Douglas County; and

WHEREAS, Contractor represents that his is qualified and licensed to provide mental health services in the State of Nevada, equipped, staffed, ready, willing and able to perform and render the services hereinafter described;

NOW, THEREFORE, in consideration of the agreements herein made, the parties mutually agree as follows:

1. **EFFECTIVE DATE OF CONTRACT.** This contract shall become effective July 1, 2012 and shall continue through June 30, 2015.
2. **INDEPENDENT CONTRACTOR STATUS.** The parties agree that Contractor shall have the status of an independent contractor and that this contract, by explicit agreement of the parties, incorporates and applies the provisions of NRS 284.713, as necessarily adapted, to the parties, including that Contractor is not a County employee and that

There shall be no:

- (1) Withholding of income taxes by County;
- (2) Industrial insurance coverage provided by the County;
- (3) Participation in group insurance plans which may be available to employees of the County;
- (4) Participation of contributions by either the independent contractor of the County to the public employees retirement system;
- (5) Accumulation of vacation leave or sick leave;
- (6) Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met;
- (7) Office space, equipment or staffing provided.

- 3. INDUSTRIAL INSURANCE.** Contractor further agrees, as a precondition to the performance of any work under this contract and as a precondition to any obligation of the County to make any payment under this contract, to provide the County with a work certificate issued by a qualified insurer in accordance with NRS 616B.627. Contractor agrees, prior to commencing any work under the contract, to complete and to provide the following written request to the qualified insurer:

Joseph E. McEllistrem has entered into a contract with Douglas County to perform work and requests that an industrial insurance provider qualified and licensed to offer such insurance within Nevada, provide to Douglas County 1) a certificate of coverage issued pursuant to NRS 616B.627 and 2) notice of any lapse in coverage or nonpayment of coverage that the contractor is required to maintain. The certificate and notice should be mailed to:

Douglas County Manager  
P.O. Box 218  
Minden, NV 89423

Contractor agrees to maintain required workers compensation coverage throughout the entire term of the contract. If contractor does not maintain coverage throughout the entire term of the contract, contractor agrees that County may, at any time the coverage is not maintained by contractor, order the contractor to stop work, suspend the contract, or terminate the contract.

Contractor may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that he is a sole proprietor and that;

1. In accordance with the provisions of NRS 616B.659, has not elected to be included within the terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS; and
2. Is otherwise in compliance with those terms, conditions and provisions.

**4. SERVICES TO BE PERFORMED.** The Contractor will provide mental health services to all inmates incarcerated in Douglas County Detention Facilities in compliance with the National Commission on Correctional Health Care (NCCHC) standards Section J-G-04 and the Sheriff's Department Medical Manual; keep and record that information necessary to insure the proper care of inmates; provide legal documentation of same, and; comply with all essential standards as set forth by NCCHC guidelines and participate in Jail evaluations for continued accreditation. Furthermore, the Contractor will coordinate and communicate with the State of Nevada Rural Clinics Community Services, the physicians and nurses who provide medical services to the inmates and involved parties. The Contractor will provide a minimum of six (6) hours of counseling services per week at a schedule that is acceptable to both Douglas County and Contractor. Contractor will

also attend at least one (NCCHC) National Conference on Correctional Health Care, at the time of his choosing during the effective date of this contract.

**5. PAYMENT FOR SERVICES.** Contractor agrees to provide the services set forth in Paragraph 4 at a cost of \$44,537 annually (\$3,714/per month). Douglas County will make equal monthly payments to Contractor upon receipt of invoice. CONTRACTOR will not be compensated for any hours the contractor is not actually performing services to the COUNTY. This amount includes an additional \$100 per month (\$1200 annually) which is intended to reimburse contractor for costs associated with attending the (NCCHC) National Conference on Correctional Health Care. Any expenses paid by the contractor in excess of this amount will not be reimbursed. Contractor must show proof of attendance while this contract is in effect, or payment made to facilitate this training will be withheld from the final payment due during this contract. Douglas County will make said monthly payments to Contractor upon receipt of invoice. CONTRACTOR will not be compensated for any hours the contractor is not actually performing services to the COUNTY.

**6. TERMINATION OF CONTRACT.** This contract may be revoked without cause by either party prior to the date set forth in paragraph (2), provided that a revocation shall not be effective until 60 days after a party has served written notice upon the other party. The Contractor shall submit invoices for work performed to the date notice was given.

**7. PROFESSIONAL LIABILITY INSURANCE AND LICENSING.** Contractor agrees to maintain his professional license in active status and good standing for the State of Nevada during the term of this Contract. Failure to maintain this license will result in immediate termination of this contract. Contractor also agrees to acquire and maintain professional liability insurance in the minimum amount of \$1,000,000 during the term of this contract. Copies of both the license and certificate of professional liability insurance must be sent to the:

Douglas County Manager  
P.O. Box 218  
Minden, NV 89423

**8. CONSTRUCTION OF CONTRACT.** This contract shall be construed and interpreted according to the laws of the State of Nevada.

**9. APPLICABLE LAWS AND HIPAA REQUIREMENTS.** Contractor shall fully and completely comply with all applicable local, state and federal laws, regulations, orders, or requirements of any sort in carrying out the obligations of this contract, including, but not limited to, all federal, state, and local accounting procedures and requirements and all immigration and naturalization laws and compliance with the Health Information Portability and Accountability Act. (HIPAA). See Attachment "A"

**10. ASSIGNMENT.** Contractor shall neither assign, transfer nor delegate any rights, obligations or duties under this contract without the prior written consent of the County.

**11. COUNTY INSPECTION.** The books, records, documents and accounting procedures and practices of Contractor related to this contract shall be subject to inspection, examination and audit by the County, including, but not limited to, the contracting agency, the County Manager, the District Attorney, and, if applicable, the Comptroller General of the United States, or any authorized representative of those entities.

**12. DISPOSITION OF CONTACT MATERIALS AND COPYRIGHT.** Any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials prepared by or supplied to Contractor in the performance of its obligations under this contract shall be the exclusive property of the County and all such materials shall be remitted and delivered, at Contractor's expense, by Contractor to the County upon completion of the project, or termination or cancellation of this contract. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than the performance of Contractor's obligations under this contract without the prior written consent of the County.

**13. PUBLIC RECORDS LAW.** Contractor expressly agrees that all documents ever submitted, filed, or deposited with the County by Contractor (including those remitted to the County by Contractor pursuant to ¶ 4,5,10 and 11), unless designated as confidential by a specific statute of the State of Nevada, shall be treated as public records pursuant to NRS chapter 239 and shall be available for inspection and copying by any person, as defined in NRS 0.039, or any governmental entity. Contractor expressly and indefinitely waives all of its right to bring, including but not limited to, by way compliant, interpleaded, intervention, or any third party practice, any claims, demands, suits, actions, judgments, or executions, for damages or any other relief, in any administrative or judicial forum, against the County or any of its officers or employees, in either their official or individual capacity, for violations of or infringement of the copyright laws of the United States or of any other nation.

**14. INDEMNIFICATION.** Contractor agrees to indemnify and save and hold the County, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this contract by Contractor or Contractor's agents or employees.

**15. MODIFICATION OF CONTRACT.** This contract constitutes the entire contract between the parties and may only be modified by a written amendment signed by the parties and approved by the Board of County Commissioners.



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

Ron Pierini, Sheriff

5/30/12

(Date)

Joseph E. McElstrem, Ph.D.

5-3-12

(Date)

June 21, 2012

Douglas County Board of Commissioners

(Date)

ATTEST:

County Clerk

Approved As To Form:

Mark Jackson  
District Attorney

BY:

Clerk to the Board

## ATTACHMENT A

### HEALTH INFORMATION PORTABILITY AND ACCOUNTABILITY ACT

#### 1. DEFINITIONS.

- 1.1 Contractor shall mean Joseph E. McEllistrem Ph.D..
- 1.2 Covered Entity shall mean Douglas County.
- 1.3 Individual shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- 1.4 Privacy Rule shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- 1.5 Protected Health Information shall have the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by Contractor from or on behalf of Covered Entity.
- 1.6 Required by Law shall have the same meaning as the term "required by law" in 45 CFR 164.501.
- 1.7 Secretary shall mean the Secretary of the Department of Health and Human Services or his designee.
- 1.8 Service Agreement or Agreement shall mean that certain agreement between Contractor and Covered Entity.

All other capitalized terms not defined herein shall have the meanings assigned in the Privacy Rule.

#### 2. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR.

- 2.1 Contractor agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law.
- 2.2 Contractor agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- 2.3 Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this Agreement.
- 2.4 Contractor agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- 2.5 Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created



- or received by Contractor on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.
- 2.6 Contractor agrees to provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to Protected Health Information 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.
  - 2.7 Contractor agrees to make any amendment(s) 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 designated by Covered Entity.
  - 2.8 Contractor agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
  - 2.9 Contractor 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 for an accounting of disclosures of Protected Health Information in accordance with CFR 164.528.
  - 2.10 Contractor agrees to provide to Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with Section 2.9 of this Agreement, 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.,

### 3. PERMITTED USES AND DISCLOSURES BY Contractor.

- 3.1 General Use and Disclosure Provisions: Except as otherwise limited in this Agreement, Contractor may use or disclose Protected Health Information on behalf of, or to provide services to, a Covered Entity for the following purposes, if such use or disclosure of Protected Health Information would not violate the Privacy Rule if done by Covered Entity, or violate the minimum necessary policies and procedures of Covered Entity, for the purpose of performing the Service Agreement.
- 3.2 Specific Use and Disclosure Provisions:
  - 3.2.1 Except as otherwise limited in this Agreement, Contractor may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Contractor.
  - 3.2.2 Except as otherwise limited in this Agreement, Contractor may disclose Protected Health Information for the proper management and



administration of the Contractor, provided that disclosures are required by law, or Contractor 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 the Contractor of any instances of which it is aware in which the confidentiality of the information has been breached.

3.2.3 Except as otherwise limited in this Agreement, Contractor may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).

3.2.4 Contractor may use Protected Health Information to report violations of law to appropriate federal and State authorities, consistent with 164.502(j)(1).

#### 4. OBLIGATIONS OF COVERED ENTITY.

4.1 Covered Entity shall notify Contractor of any limitation(s) in its notice of privacy practices to the extent that such limitation may effect Contractor's use or disclosure of Protected Health Information.

4.2 Covered Entity shall provide Contractor with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Contractor's permitted or required uses and disclosures.

4.3 Covered Entity shall notify Contractor 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 the same may effect Contractor's use or disclosure of Protected Health Information.

4.4 Permissible Requests by Covered Entity: Covered entity shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity (unless permitted for a Contractor under the Rule for data aggregation or the management and administrative activities of Contractor.)


#### 5. TERM AND TERMINATION.

5.1 Term. The Term of this Agreement shall be effective as of the date first written above, and shall terminate when all of the Protected Health Information provided by Covered Entity to Contractor, or created or received by Contractor 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 provisions in this Section. Termination of this Agreement shall automatically terminate the Service Agreement.

- 5.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach by Contractor, Covered Entity shall provide an opportunity for Contractor to cure the breach or end the violation, and Covered Entity shall:
  - 5.2.1 Provide an opportunity for Contractor to cure the breach or end the violation and terminate this Agreement if Contractor does not cure the breach or end the violation within the time specified by Covered Entity, or
  - 5.2.2 Immediately terminate this Agreement if Contractor has breached a material term of this Agreement and cure is not possible.
  - 5.2.3 If neither termination nor cure are feasible, Covered Entity will report the violation to the Secretary
- 5.3 Effect of Termination.
  - 5.3.1 Except as provided in the following paragraph, upon termination of this Agreement, for any reason, Contractor shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Contractor on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information.
  - 5.3.2 In the event that Contractor determines that returning or destroying the Protected Health Information is infeasible, Contractor shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health information is infeasible, Contractor shall extend the protections of this Agreement to such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protected Health Information.

## 6. MISCELLANEOUS.

- 6.1 Regulatory References. A reference in this Agreement to a section in the Privacy means the section as in effect or as amended, and for which compliance is required.
- 6.2 Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- 6.3 Survival. The respective rights and obligations of Contractor under Section 5.3 of this Agreement shall survive the termination of this Agreement.
- 6.4 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule.



By:  5-3-12  
Joseph E. McEllistrem Ph.D. (Date)

By:   
Douglas County Board of Commissioners (Date)

COPY

**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: June 27 2012  
 Clerk of the 9th Judicial District Court  
of the State of Nevada, in and for the County of Douglas.  
By  Deputy