

## AGREEMENT

**THIS AGREEMENT** is entered into by and between Joseph Higgins, Ph.D., (hereinafter referred to as the “Contractor”) and the Lancaster County, Nebraska (hereinafter referred to as the “County”). Collectively the County and the Contractor may be referred to as “Parties,” and individually each may be referred to as a “Party.”

**WHEREAS**, the County, through the Mental Health Crisis Center (hereinafter referred to as the “Crisis Center”) presently provides mental health services to citizens of the County;

**WHEREAS**, the Crisis Center is presently unable to provide all the needed mental health services for which it is responsible due to a shortage of qualified Psychologists on staff; and

**WHEREAS**, Joseph Higgins, Ph.D., is a Psychologist who is qualified to provide the needed services and wishes to contract with the County for the provision of these services;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, it is agreed between the Parties as follows:

1. Responsibilities: Contractor shall provide the County with specialized psychological services to up to and no more than 320 hours of specialized psychological services per year, including on call weekend services. The exact hours and duties of the Contractor shall be based upon the requests of the staff at the Crisis Center. The Contractor agrees that providing specialized psychological services at the Crisis Center includes providing a written evaluation of persons served at the Crisis Center. In addition, the Contractor agrees to attend, and to provide input and recommendations at, the Crisis Center Staff Meeting. The Contractor also agrees to appear and testify before the Mental Health Board as requested. The Contractor agrees that the provision of specialized psychological services shall include: providing supervision, assessments, and individual therapy and group therapy, assisting with family support, and providing follow-up consultations and other duties as requested. Contractor shall provide on-call services on the weekends only in those situations where both the Contractor and the County agree that such on-call services are warranted. The Contractor is expected to be available to the County within a reasonable amount of time if called to duty on the weekend. The Contractor warrants that he shall abide by all the laws, rules, and regulations that govern the practices and procedures of a licensed psychologist.

2. Licensing: Contractor agrees that he is and at all times during the contract shall be a licensed psychologist. Contractor further agrees that should he no longer be licensed, he shall notify the County immediately. Should the Contractor lose his license, the Parties agree that the County may terminate this Agreement pursuant to Paragraph 10.

3. Term: This Agreement shall have a term of one year from the date of execution, unless terminated pursuant to Paragraph 10 of this Agreement. Upon expiration of the original term, this Agreement may be renewed by mutual agreement of the Parties.

4. Compensation: The County will pay Contractor Seventy Five Dollars (\$75.00) per hour, up to and including a maximum of 320 hours per year, including on-call weekend services. If the Contractor is called on the weekend to perform services, the Contractor shall be reimbursed at the normal rate of Seventy Five Dollars per (\$75.00) hour. Should the need for services of the Contractor exceed the maximum of 320 hours per year, including on-call weekend services, any and all services provided above this amount shall be subject to the prior approval of the Lancaster County Board of County Commissioners. Contractor agrees that he shall not be paid until services have been provided to the County. The Parties agree that compensation is not nor shall it be deemed a retainer. Contractor shall not be required to provide further services, beyond 320 hours per year, including on-call weekends, until receiving prior written notification of the approval of the Lancaster County Board of Commissioner of additional funding for those hours.

It is understood and agreed that the amount stated above shall represent total reimbursement for the services provided under the terms of this contract. Neither the County nor the Crisis Center shall be responsible for the direct payment of any wages, insurance, or fringe benefits, including but not limited to vacation, overtime, retirement benefits, workers' compensation insurance, and unemployment insurance.

5. Independent Contractor. It is the express intent of the Parties that this Agreement shall not create an employer-employee relationship. Contractor shall be an independent contractor, and shall not be considered an employee of the County for any purpose. The compensation provided herein shall represent the total consideration to be paid by the County for the services to be provided, and the County shall not be responsible for payment or provision of insurance, fringe benefits, withholding, or any other expenses not specifically provided for herein. Contractor shall further assume full responsibility for payment of any and all expenses or related costs associated with, or arising from, any injury to Contractor that may arise in the course of performing this agreement.

6. Assignment. The Contractor shall not assign its duties and responsibilities under this Agreement without the express written permission of the County.

7. Indemnification. The Contractor shall indemnify and hold harmless the County, its agents, employees and representatives from all claims, demands, suits, actions, payments, liability, judgments and expenses (including court-ordered attorney's fees), arising out of or resulting from the performance of this Agreement that results in bodily injury, sickness, disease, death, civil rights liability, or damage to or destruction of tangible property, including the loss of use resulting therefrom, and is caused in whole or in part by the Contractor, its employees,

agents, or representatives, either directly or indirectly employed by them. This section will not require Contractor to indemnify or hold harmless the County for any losses, claims, damages and expenses arising out of or resulting from the negligence of the County.

8. Severability. If any portion of this Agreement is held invalid, the remainder hereof shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

9. Equal Employment Opportunity. In connection with the carrying out of the activities provided herein, the Contractor shall not discriminate against an employee, applicant for employment, participant, or any other person because of race, color, religion, sex, disability, national origin, age, marital status, receipt of public assistance, or any other basis prohibited by applicable state or federal law.

10. Termination. This contract may be terminated by either Party hereto without penalty by giving written notice of such intent to the other Party at least thirty (30) days prior to the proposed date of termination. Except as otherwise provided herein, should Contractor breach this Agreement, County will notify Contractor of the breach in writing, and Contractor will have fifteen (15) days to cure. If the breach is not cured within those 15 days, the County may, at its discretion, terminate this Agreement immediately upon written notice to the Contractor.

11. Confidentiality. During the term of this Agreement, the Contractor shall perform all services in accordance with the established and applicable standards and in accordance with applicable state and local laws. Contractor agrees to keep any and all information obtained in the performance of this Agreement confidential as required by law. The Contractor further agrees to abide by the confidentiality regulations specified in 42 C.F.R. Part 2 of the Federal Register. The Contractor further agrees that it shall be compliant with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and implementing regulations pertaining to confidentiality of health information.

12. Governing Law. This agreement shall be construed in accordance with and governed by the laws of the State of Nebraska.

13. Insurance. The Contractor shall, prior to beginning work, provide proof of insurance coverage in a form satisfactory to the County, which shall not withhold approval unreasonably. The coverages and minimum levels required by this Agreement are set forth below and shall be in effect for all times that work is being done pursuant to this Agreement. No work pursuant to this Agreement shall begin until all insurance obligations herein are met to the satisfaction of the County, which shall not unreasonably withhold approval. Self-insurance shall not be permitted unless consent is given by the County prior to execution of the Agreement and may require submission of financial information for analysis. Deductible levels shall be provided in writing from the Contractor's insurer and will be no more than \$25,000.00 per

occurrence. Said insurance shall be written on an OCCURRENCE basis, and shall be PRIMARY, with any insurance coverage maintained by the County being secondary or excess.

Malpractice and Professional Liability Insurance. The Contractor shall purchase and maintain during the term of this Agreement, Malpractice and Professional Liability Insurance for the Licensed Mental Health Professional with base insurance coverage of \$500,000 per occurrence and an aggregate limit of \$1,000,000 and shall qualify for maximum qualification under the Nebraska Medical and Hospital Liability Act, Neb. Rev. Stat. §§ 44-2801 et seq. This insurance shall list the County as an additional insured. Contractor shall not perform under this Agreement until Contractor has provided proof of such insurance to the County.

Workers' Compensation Insurance: The Contractor does not maintain Workers' Compensation Insurance and thus Contractor agrees that Contractor alone will perform all obligations outlined in the agreement and will not delegate any obligations to a third party.

Sovereign Immunity. Nothing contained in this Section or other Sections of this Agreement shall be construed to waive the Sovereign Immunity of the County.

Certificates. The Contractor shall provide a certificate of insurance and endorsements evidencing compliance with these requirements. The Contractor's insurance shall include an endorsement to provide for at least thirty (30) days' firm written notice in the event of cancellation. Intent to notify is not acceptable. During the Term of the Agreement and during the period of any required continuing coverages, the Contractor shall provide, prior to expiration of the policies, certificates and endorsements evidencing renewal insurance coverages. The Parties agree that the failure of County to object to the form of a certificate and/or additional insured endorsement provided shall not constitute a waiver of this requirement.

Minimum Scope of Insurance. All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted otherwise.

14. Employee Verification. In accordance with Neb. Rev. Stat. §§ 4-108 through 4-114, Contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility

Act of 1996, 8 U.S.C. § 1324a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A § 1324b. Contractor shall require any subcontractor to comply with the provisions of this section.

15. Health Insurance Portability and Accountability Act of 1996 (HIPAA). Contractor is an independent contractor hired to work for the County where the creation, maintenance, use, or disclosure of protected health information (PHI) is performed on the County's premises. Contractor agrees he is a health care provider receiving Crisis Center's PHI for the purposes of treating or evaluating the individual client or patient, and Contractor agrees he will follow the Crisis Center's policies and procedures on PHI and not maintain or transmit PHI contrary to the Crisis Center's policies and procedures. The Parties agree Contractor is not a Business Associate as outlined in 42 C.F.R. § 160.103.

16. Third Party Rights. This Agreement is not intended to, and does not, create any rights or benefits on behalf of any person, whether an individual or an entity, other than the Parties to this Agreement. County shall not be obligated or liable hereunder to any person, whether an individual or an entity, other than Contractor.

17. Forbearance Not Waiver. Either Party's failure or neglect to enforce any of its rights under this Agreement will not be deemed to be a waiver of that Party's rights

18. Entire Agreement. The Parties hereby agree that this Agreement constitutes the entire understanding of the Parties and supersedes all prior contracts, agreements and negotiations between the Parties whether verbal or written.

19. Laws. During the Term of this Agreement, the Contractor shall perform all services in accordance with the established and applicable standards and in accordance with applicable federal, state, and local laws.

EXECUTED this 26 day of June, 2017 by CONTRACTOR.

By: 

Name: Joseph Higgins, Ph.D.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Lancaster County, Nebraska.

BY THE BOARD OF COUNTY  
COMMISSIONERS OF LANCASTER  
COUNTY, NEBRASKA

By: \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM

this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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for JOE KELLY

Lancaster County Attorney

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