

MISSOULA COUNTY PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into by and between Missoula County, hereinafter referred to as “the County”, and Probation and Parole, MT Department of Corrections, hereinafter referred to as “Contractor”, identified as follows:

Organization Name: Probation and Parole, MT Department of Corrections
Organization Type: Bureau of state government
Principal Contact: Kathleen Beccari
Mailing Address: 2415 Mullan Road, Missoula, MT 59808
Telephone Number: 406-542-7128
E-mail Address of Principal Contact: kbeccari@mt.gov

Contractor will provide either a Social Security Number or an Employer Identification Number on IRS Form W-9 as provided by law.

1. Purpose

The Probation and Parole Bureau has special expertise and operational capabilities in providing DUI-related enforcement activities for the purpose of reducing alcohol-involved traffic crashes. The County desires to enter into a professional services agreement with Contractor for services desired, in return for the compensation stated. To this end, the parties mutually agree as follows.

2. Relationship of the Parties

Missoula County is a political subdivision of the State of Montana. Contractor is a Bureau of State Government.

This Agreement is not intended to constitute or create a joint venture, partnership or formal business organization of any kind whatsoever among and between the parties, and their respective rights and obligations will be only those expressly set forth herein. Neither party will have any authority to bind the other except to the extent authorized herein.

Each party will furnish to the other such cooperation and assistance as may be reasonably required and specified hereunder. However, at all times, each party shall remain an independent contractor with respect to the other. Employees and agents of each party will not be deemed to be employees or agents of the other party. Contractor will perform or provide its services free from the supervision, direction or control of the County.

The County and the Contractor are required to comply with the provisions of the Montana Worker’s Compensation Action.

3. Required Work or Product

The Contractor shall provide the specific services, tasks, or work products shown on the attached Exhibit A, which lists the scope of services relating to this Agreement. By this reference, Exhibit A is made a part of the Agreement.

4. Performance Schedule and County Assistance

Contractor shall commence performance of services identified in Exhibit A of this Agreement on the 1st day of July, 2014 and shall complete performance of this Agreement by the 31st day of May, 2015. Final invoices shall be submitted for reimbursement no later than June 20, 2015.

The County may, by written change order, request changes within the general scope of this Agreement in the schedule, specifications, or quantity of work to be performed hereunder, and Contractor shall be entitled to a reasonable period of time to perform or provide said changes. Additional fees will be charged to the County for such changes as set out in Exhibit A.

County's Responsibilities - The County shall be responsible for assisting with the performance of this Agreement by doing or providing the following:

- a. N/A
- b.
- c.
- d.

5. Place where service will be rendered

Contractor will perform most services in accordance with this Agreement at a location of Contractor's discretion. In addition, Contractor will perform services via the telephone, electronic mail, or at such other places as necessary to perform these services in accordance with this Agreement.

6. Compensation for Services

For the satisfactory completion of services to be performed under Exhibit A, the County will pay Contractor a sum not to exceed \$2,975 (two thousand nine hundred seventy five dollars). Any modifications must be approved by the County Commissioners through the change order process and will be compensated according to the fee schedule contained on Exhibit A. Invoices must be submitted to the Principal Contact for the County identified in Paragraph 9 of this Agreement with complete supporting documentation.

7. Insurance and Workers' Compensation

The County and the Contractor will each maintain liability insurance and automobile occurrence coverage, or self-insurance, in adequate amounts.

In accordance with §§ 39-71-120, 39-71-401 and 39-71-405 MCA, the County and the Contractor agree to provide workers' compensation insurance for its employees while performing work under this Agreement.

All insurance policies required must be from an insurance carrier licensed to do business in the State of Montana.

8. Records

Contractor shall maintain sufficient records incident to the performance of this Agreement to enable the County to document the performance of the Agreement. Contractor shall allow access to those records by the County and the County Auditor, any independent auditor employed by the County and to representatives of the state or federal government. Records shall be retained for at least three years after completion of the Agreement.

9. Principal Contact for the County

The County official with whom the Contractor must communicate regarding this Agreement and who shall have the authority to accept completion of performance and to submit requests for payment to the County Auditor and Commissioners is:

Name: Lonie Hutchison

Title: DUI Task Force Coordinator

Address: Missoula City-County Health Dept., 301 W. Alder, Missoula MT 59802

Telephone Number: 406-258-3880

Email Address: lhutchison@co.missoula.mt.us

10. Ownership and Publication of Materials

All reports, information, data, and other materials prepared by Contractor pursuant to this Agreement are the property of the County, which has the exclusive and unrestricted authority to release, publish, or otherwise use, in whole or in part, information relating thereto. No material produced in whole or in part under this Agreement may be copyrighted or patented in the United States or in any other country without the prior written approval of the County.

11. Public Access to Information

Contractor acknowledges that the County is a local government unit and its records are public and subject to disclosure under Montana law. Certain information may be protected from disclosure. Protected information includes information concerning an individual privacy interest, legitimate trade secrets and other constitutionally protected

proprietary information and certain information relating to individual or public safety. The parties agree to confer prior to disclosure of information relating to this Agreement and its performance which may include protected information.

12. Termination

This Agreement may be terminated at any time by either party by mutual written and signed consent of both parties.

If the Agreement is terminated prior to completion, County shall be responsible for paying Contractor for completed and accepted work and billed to the County as provided in Paragraphs 6 and 7 within thirty (30) days of termination.

13. Failure to Perform

Upon any material default or substantial failure to perform this Agreement by either party, the other party shall be entitled to the following remedy:

- a. Stop performing or accepting performance of the contracted work until the matter is resolved;
- b. Within a reasonable time of discovery of the defect or failure to perform, mail a written description of the defect or failure to the other party, and:
 - 1) If the defect or failure to perform can be cured, demand specific remedial action within a reasonable time certain; or
 - 2) If the defect or failure to perform cannot be cured, specify any alternative performance which would be acceptable in lieu of the required performance and a time within which the alternative performance would be required; or
 - 3) 3) If the defect or failure to perform cannot be cured and no reasonable alternative performance is acceptable, notify the other party of the termination of the Agreement as of a date certain and state therein whether an action for breach of Agreement will be brought.
 - 4) Where appropriate, obtain completion of the performance of the remaining balance of the Agreement with the original party.
- c. If the defect or failure to perform is not corrected or alternative performance completed within the time certain specified, the party alleging breach may initiate an action in the District Court of the Fourth Judicial District, Missoula County. If an action is brought, the prevailing party shall be entitled to attorney's fees as well as other costs of suit.

14. Income Tax Designation

In the event that the Internal Revenue Services should determine that Contractor is, according to IRS guidelines, an employee subject to withholding and social security contributions, Contractor shall acknowledge, as Contractor acknowledges herein, that

all payments to Contractor are gross payments and Contractor is responsible for all income taxes and social security payments received prior to such IRS determination.

15. Indemnification

Contractor shall defend, indemnify and hold harmless the County, its employees and agents, from all claims, liabilities, causes of action or judgments, including costs and attorney fees, asserted by or awarded to third parties as a result of any negligent action or omission or willful misconduct of Contractor, its employees or agents.

County shall defend, indemnify and hold harmless Contractor, its employees and agents, from all claims, liabilities, demands, causes of action or judgments, including costs and attorney fees, asserted by or awarded to third parties as a result of any negligent action or omission or willful misconduct of the County, its employees or agents.

16. Entire Agreement, Modifications and Non-Assignment

This Agreement contains the entire Agreement between the parties. All preliminary negotiations and Agreements are merged herein. This Agreement cannot be changed or modified in any manner except by a written Agreement signed by both parties.

No obligation or right hereunder may be assigned, transferred, subcontracted or otherwise given to or imposed on any other party in the absence of a written Agreement signed by both parties.

17. Compliance with Laws and Non-Discrimination

Contractor agrees to comply with all federal, state and local laws, rules and regulations. In accordance with §49-3-207 MCA, all hiring must be on the basis of merit and qualifications; and there may not be discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

18. Place of Performance and Venue

Contractor and County agree that performance of this Agreement is in Missoula County, Montana. In the event of litigation concerning it, venue is in the 4th Judicial District, in and for the County of Missoula, State of Montana. This Agreement will be construed under and governed by the laws of the State of Montana.

19. Severability

If any part of this Agreement is hereafter held to be void, illegal or unenforceable, the validity of the remaining portion or provisions will not be affected hereby.

**MISSOULA COUNTY PROFESSIONAL
SERVICES AGREEMENT
WITH PROBATION AND PAROLE, MT DEPARTMENT OF CORRECTIONS**

Project: Probation and Parole participation in special DUI enforcement activities

Contractor:

ca
fw
Loraine Wodnik
~~Pam Bunko~~ Loraine Wodnik
Acting Adult Community Corrections Division Administrator

Date: 11-12-14

Reviewed for Legal Content:

ca
fw
Colleen Ambrose
~~Diana Koch~~ Colleen Ambrose, Chief Legal Counsel

Date: 10-30-14

BOARD OF COUNTY COMMISSIONERS
Missoula County, Montana

DATED this 25th day of November, 2014.

Jean Curtis
Chair

Mihaila Ladypina
Commissioner

NOT AVAILABLE FOR SIGNATURE

Commissioner

ATTEST:

[Signature]
Clerk & Recorder

**MISSOULA COUNTY
PROFESSIONAL SERVICES AGREEMENT
WITH PROBATION AND PAROLE, MT DEPARTMENT OF CORRECTIONS**

Exhibit A – Scope of Services

Project: Probation and Parole participation in special DUI enforcement activities

Referenced to and made a part of the Professional Services Agreement between Missoula County and Contractor, dated November 25, 2014.

Under the terms of the Professional Services Agreement, Contractor will provide the following services or tasks or work products:

Probation and Parole officers will participate in special DUI enforcement activities within Missoula County to reduce alcohol-involved traffic crashes by conducting random home visits and bar checks to conduct breath testing of convicted felony DUI offenders and conduct other compliance checks to insure offenders who are prohibited from consuming alcohol or operate motor vehicles, or are prohibited from operating vehicles without interlock devices are in compliance with those conditions.