

STATE OF TEXAS

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COUNTY OF WILLIAMSON

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TOMMY SCHMITT, LMSW - ACP

This agreement is entered into by and between Williamson County at the request of and on behalf of Williamson County Juvenile Services (collectively referred to as "Juvenile Probation") and Tommy Schmitt, LMSW-ACP, a Texas corporation located at 903 Forest Street, Georgetown, Texas 78626 ("Service Provider").

ARTICLE I
PURPOSE

1.01 The purpose of this Agreement is to provide sex offender counseling, sex offender assessments and a sex offender treatment program to court ordered probation youth.

ARTICLE II
TERM

2.01 The term of this Agreement is for twelve (12) months, commencing October 1, 2010, and ending September 30, 2011. It shall be automatically renewed for one year terms unless one party notifies the other in writing of its intention to not renew this Agreement, at least thirty (30) days prior to the expiration of said term.

ARTICLE III
SERVICES

3.01 Service Provider will perform the following services: Individual, Family, and Group Counseling, Written Reports, Consultations and Court Appearances.

ARTICLE IV
EVALUATION CRITERIA

4.01 The performance of Service Provider in achieving the goals of Juvenile Probation will be evaluated on the basis of the output and outcome measures contained in this section. Juvenile Probation, at its discretion, may use other means or additional measures to evaluate the performance of Service Provider in fulfilling the terms and conditions of the Agreement.

- A. Juvenile Probation shall evaluate Service Provider's performance under this Agreement according to the following specific performance goals for Service Provider:
1. Timeliness of generating Treatment Plan of youth
 2. Timeliness of generating monthly Progress Reports
 3. Accuracy of written reports

- 4.02 Service Provider shall be monitored on a monthly basis to Juvenile Probation as to each of the foregoing output and outcome measures. These reports will reviewed by Juvenile Probation in order to monitor Service Provider for programmatic compliance with this Agreement.

ARTICLE V
COMPENSATION

- 5.01 For and in consideration for the above-mentioned services, Juvenile Probation agrees to pay Service Provider...

Initial Assessment Session \$115.00/session

- 45 – 50 minute sessions
- Treatment plan submitted to supervision officer as well as monthly progress reports

Individual Counseling Sessions \$75.00/hour

- 45 – 50 minute sessions
- Treatment plan submitted to supervision officer as well as monthly progress reports

Family Counseling Sessions \$75.00/hour

- 45 – 50 minute sessions
- Treatment plan submitted to supervision officer as well as monthly progress reports

Group Counseling Sessions \$35.00/person/group

- 45 – 50 minute sessions

Court Appearances \$75.00/hour

Report Writing/Consultations \$60.00/hour

- 5.02 Service Provider agrees to reduce the amount of each invoice for services by that amount received from other sources for said services. (Reimbursement terms for contractors NOT serving clients)
- OR
- 5.02 Service Provider must use its best efforts to seek and obtain all benefits available from other sources for eligible children. It must initiate and complete any appropriate Medicaid application and complete all necessary documentation to obtain reimbursement for children who may be eligible for Medicaid. Any income received by Service Provider toward the support of a child from sources other than this Agreement, including but not limited to Medicaid, Social Security, medical insurance coverage, or contributions from parents or others must be documented as to each child for whom a billing is submitted and deducted from the invoice submitted to Juvenile Probation. Documentation must include the name(s) of the parties receiving the services, the dates and times services were provided. (Reimbursement terms for contractors serving clients)
- 5.03 Service Provider will submit an invoice for payment of services to the Juvenile Probation Fiscal Officer on a monthly basis. Said invoice shall be submitted within ten (10) working days following the end of the invoiced month and shall include information deemed necessary for adequate fiscal control, including but not limited to the hours worked, attributed to specific clients

if appropriate; date service was rendered; the hourly rate; the total daily cost; and total monthly cost. Each invoice received for payment will be reviewed by Juvenile Probation in order to monitor Service Provider for financial compliance with this Agreement. Invoices submitted by Service Provider in proper form shall be paid by Juvenile Probation in a timely manner.

- 5.04 Service Provider agrees to make claims for payment or direct any payment disputes to the Juvenile Probation Fiscal Officer. Service Provider will not contact other Juvenile Probation employees regarding any claims for payment.
- 5.05 Service Provider agrees and understands that all financial obligations of Juvenile Probation provided for in this Agreement for which current revenue is not available will be contingent on the availability of appropriated funds to meet said obligations.

ARTICLE VI EXAMINATION AND RETENTION OF RECORDS

- 6.01 Service Provider agrees that it will permit Juvenile Probation to examine and evaluate its program of services provided under the terms of this Agreement and/or to review its records periodically. This examination and evaluation of the program may include site visitation, observation of programs in operation, interview and the administration of questionnaires to the staff of Service Provider and the children when deemed necessary.
- 6.02 Service Provider shall retain and make available to Juvenile Probation all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a minimum of three (3) years, or until any pending litigation, claim, audit or review and all questions arising therefrom have been resolved, and shall make available for Juvenile Probation's inspection, all contractual agreements with Service Provider's subcontractors for services related to this Agreement.
- 6.03 Service Provider understands that acceptance of funds under this Agreement acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Service Provider further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Service provider will ensure that the foregoing clauses concerning the authority of the State of Texas to audit and the requirement to cooperate is included in any subcontract or arrangement Service Provider enters into in which funds received under this Agreement form all or part of the consideration.

ARTICLE VII CONFIDENTIALITY OF RECORDS

- 7.01 Service Provider shall maintain strict confidentiality of all information and records relating to juveniles involved in Juvenile Probation, and shall not re-disclose the information except as required to perform the services to be provided pursuant to this Agreement, or as may be required by law.

ARTICLE VIII DUTY TO REPORT

- 8.01 As required by §§261.101 and 261.405 of the Texas Family Code, Service Provider shall report any allegation or incident of abuse, exploitation or neglect of any child (including but not limited

to a juvenile that is under the supervision of Juvenile Probation) within twenty-four (24) hours from the time the allegation is made, to all of the following:

- A. Local law enforcement agency (such as the Williamson County Sheriff's Office); and
- B. Texas Juvenile Probation Commission by submitting a TJPC Incident Report Form to facsimile number 1-512-424-6717 (or if unable to complete the form within 24 hours, then by calling toll-free 1-877-786-7263, followed by submitting the report within 24 hours of said call); and
- C. Williamson County Juvenile Probation Department to facsimile number (512)-943 -3209.

ARTICLE IX DISCLOSURE OF INFORMATION

- 9.01 Service Provider warrants that, prior to entering this contract, it has verified and disclosed the following information to Juvenile Probation, and agrees that it shall have an ongoing affirmative duty under this Agreement to promptly ascertain and disclose in sufficient detail this same information to Juvenile Probation:
- A. Any and all corrective action required by any of Service Provider's licensing authorities;
 - B. Any and all litigation filed against the Service Provider, or against its employees, interns, volunteers, subcontractors, agents and/or consultants that have direct contact with juveniles;
 - C. Any arrest of any employee, intern, volunteer, subcontractor, agent and/or consultant of the Service Provider that has direct contact with juveniles;
 - D. Any finding of "Reason to Believe" by a state regulatory agency in a child abuse, neglect and exploitation investigation where an employee, intern, volunteer, subcontractor, agent and/or consultant of Service Provider that has direct contact with juveniles was the alleged or designated perpetrator;
 - E. The identity of any of Service Provider's employees, interns, volunteers, subcontractors, agents and/or consultants that have direct contact with juveniles that are registered sex offenders; and
 - F. The identity of any of Service Provider's employees, interns, volunteers, subcontractors, agents and/or consultants that have direct contact with juveniles that have a criminal history. For the purpose of this Agreement, the term "criminal history" shall include: (1) current felony or misdemeanor probation or parole; (2) a felony conviction or deferred adjudication within the past ten years; or (3) a jailable misdemeanor conviction or deferred adjudication within the past five years.

ARTICLE X EQUAL OPPORTUNITY

- 10.01 Service Provider agrees to respect and protect the civil and legal rights of all children and their parents. It will not unlawfully discriminate against any employee, prospective employee, child, childcare provider, or parent on the basis of age, race, sex, religion, disability or national origin. Service Provider shall abide by all applicable federal, state and local laws and regulations.

ARTICLE XI
ASSIGNMENT & SUBCONTRACT

- 11.01 Service Provider may not assign or subcontract any of its rights, duties and/or obligations arising out of this Agreement without the prior written consent of Juvenile Probation.

ARTICLE XII
OFFICIALS NOT TO BENEFIT

- 12.01 No officer, employee or agent of Juvenile Probation and no member of its governing body and no other public officials of the governing body of the locality or localities in which the project is situated or being carried who exercise any functions or responsibilities in the project, shall participate in any decision relating to this Agreement which affects or conflicts with his/her personal interest or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XIII
DEFAULT

- 13.01 Juvenile Probation may, by written notice of default to Service Provider, terminate the whole or any part of this Agreement as it deems appropriate, in any one of the following circumstances:
- A. If Service Provider fails to perform the work called for by this Agreement within the time specified herein or any extension thereof; or
 - B. If Service Provider fails to perform any of the other material provisions of this Agreement, including failure to achieve the defined goals, outcomes, and outputs, or so fails to prosecute the work as to endanger the performance of this Agreement in accordance with its terms.
 - C. In either of these two circumstances after receiving notice of default, Service Provider does not cure such failure within a period of ten (10) days.
- 13.02 Any default by Service Provider, regardless of whether the default results in termination, will jeopardize Service Provider's ability to contract with Juvenile Probation in the future, and may result in the refund of compensation received under this Agreement.

ARTICLE XIV
TERMINATION

- 14.01 This Agreement may be terminated:
- A. By either party upon ten (10) days written notice to the other party of the intention to terminate; or
 - B. Upon expenditure of available funds.
- 14.02 If at any time during the term of this agreement Juvenile Probation, in its sole discretion, determines that the safety of children being served under this Agreement may be in jeopardy, Juvenile Probation may immediately suspend the effect of this Agreement, including but not limited to the obligation to pay, upon giving notice to the Service Provider.

ARTICLE XV
WAIVER OF SUBROGATION

- 15.01 Service Provider expressly waives any and all rights it may have of subrogation to any claims or rights of its employees, agents, owners, officers, or subcontractors against Juvenile Probation. Service Provider also waives any rights it may have to indemnification from Juvenile Probation.

ARTICLE XVI
INDEMNIFICATION

- 16.01 It is further agreed that Service Provider will indemnify and hold harmless Williamson County and Juvenile Probation against any and all negligence, liability, loss, costs, claims, or expenses arising out of wrongful and negligent act(s) of commission or omission of Service Provider, its agents, servants, or employees arising from activities under this Agreement. Service Provider shall have no obligation to indemnify and hold harmless Williamson County and Juvenile Probation for any act(s) of commission or omission of Williamson County's or Juvenile Probation's agents, servants, or employees arising from or related to this Agreement for which a claim or other action is made.

ARTICLE XVII
SOVEREIGN IMMUNITY

- 17.01 This Agreement is expressly made subject to Williamson County's Sovereign Immunity, Title 5 of the Texas Civil Practices and Remedies Code, and all applicable federal and state law. The parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver or any immunities from suit or from liability that the Williamson County has by operation of law. Nothing in this Agreement is intended to benefit any third party beneficiary.

ARTICLE XVIII
REPRESENTATIONS & WARRANTIES

- 18.01 Service Provider hereby represents and warrants the following:
- A. That it has all necessary right, title, license and authority to enter into this Agreement;
 - B. That it is qualified to do business in the State of Texas; that it holds all necessary licenses and staff certifications to provide the type(s) of services being contracted for; that it is in compliance with all statutory and regulatory requirements for the operation of its business; and that there are no taxes due and owing to the State of Texas, the County of Williamson, or any political subdivision thereof;
 - C. That it carries sufficient insurance to provide protection to Juvenile Probation under the indemnity provisions, as well as for any potential liabilities that arise from or related to this Agreement; and
 - D. That all of its employees, interns, volunteers, subcontractors, agents and/or consultants will be properly trained to report allegations or incidents of abuse, exploitation or neglect of a juvenile in accordance with the requirements of Texas Family Code Chapter 261 and any applicable Texas Juvenile Probation Commission administrative rules regarding abuse, neglect and exploitation allegations.

ARTICLE XIX
TEXAS LAW TO APPLY

- 19.01 This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Williamson County, Texas.

ARTICLE XX
VENUE

- 20.01 Exclusive venue for any litigation arising from this Agreement shall be in Williamson County, Texas.

ARTICLE XXI
ADDITIONAL TERMS

- 21.01 Service Provider shall comply with all applicable federal and state laws and regulations, Juvenile Probation policies, and Texas Juvenile Probation Commission standards pertinent to services provided under this Agreement.
- 21.02 Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this Agreement, bid or application is not ineligible to receive the specified grant, loan or payment and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 21.03 Service Provider is hereby notified that state funds are used to pay for services rendered to Juvenile Probation. For this reason, Service Provider shall account separately for the receipt and expenditure of all funds received from Juvenile Probation, and shall adhere to Generally Accepted Accounting Principles (GAAP) in the accounting, reporting and auditing of such funds.

ARTICLE XXII
LEGAL CONSTRUCTION

- 22.01 In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceable provision shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained therein.

ARTICLE XXIII
PRIOR AGREEMENTS SUPERSEDED

- 23.01 This Agreement constitutes the sole and only Agreement of the parties hereto and supersedes any prior understandings or written or oral Agreement between the parties respecting the within subject matter.

ARTICLE XXIV
AMENDMENTS

- 24.01 Juvenile Probation may amend, modify or alter the terms of this Agreement and specify an effective date thereof. Juvenile Probation will then notify Service Provider in writing, dated subsequent to the date hereof, of such changes and their effective date. Continuation of services

Tommy Schmitt, LMSW-ACP
Counseling Services Agreement
October 1, 2010 – September 30, 2011

after the effective date by Service Provider will signify its acceptance of these changes. If Service Provider declines to accept changes made by Juvenile Probation, Service Provider may terminate this Agreement subject to the conditions herein.

ARTICLE XXV
INDEPENDENT CONTRACTOR CLAUSE

- 25.01 Both parties hereto, in the performance of this contract, shall acting an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. The contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the contractor's employees.

EXECUTED IN DUPLICATE EACH OF WHICH SHALL HAVE THE FULL FORCE AND EFFECT OF AN ORIGINAL.

WILLIAMSON COUNTY, TEXAS

BY: 

Williamson County Judge Dan Gattis

Date: 10-19-2010

As Authorized by Williamson County
Commissioners Court

TOMMY SCHMITT, LMSW-ACP.

BY: 

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