

**CONTRACT AND AGREEMENT FOR
SEX OFFENDER TREATMENT SERVICES FOR JUVENILE OFFENDERS**

Agustin Gutierrez, Jr.-Sex Offender Treatment Services

October 1, 2022 – September 30, 2023

This Agreement is entered into by and between **Brazos County**, acting by and through its duly authorized representative (**hereinafter, "Juvenile Probation"**) and Mr. Agustin Gutierrez, Jr. (Licensed Sex Offender Treatment Provider).

PURPOSE

1.00 The purpose of this Service Agreement is to provide Juvenile Probation with sex offender evaluations and treatment for children on deferred prosecution or adjudicated to have committed delinquent conduct or conduct indicating a need for supervision.

TERM

2.00 The term of this Agreement is for 12 months commencing October 1, 2022 – September 30, 2023, with the option to renew this contract in one (1) year increments for three (3) years.

SERVICES

3.01 Mr. Gutierrez will perform the following services of the below along with what was requested in Exhibit A (RFP 23-015 Sex Offender Treatment Provider):

- A. Provide and document professional sex offender counseling and treatment.
- B. Initiate and document meetings and attempted meetings among Juvenile Probation staff and contracted children for the purpose of justifying continued treatment. Justification shall be done at a minimum of every thirty (30) days. A copy of the treatment justification shall be submitted to Juvenile Probation within ten (10) working days.
- C. Document and maintain records of all goods and services provided to contracted children. These records shall contain, but are not limited to: hours of services provided, number of children served, total hours of counseling or treatment provided. These records shall be made available to Juvenile Probation for periodic inspection and upon request by the court.

3.02 Mr. Gutierrez shall report on a monthly basis to Juvenile Probation regarding the status of each youth referred. These reports will be reviewed by Juvenile Probation in order to ensure youths' compliance with court ordered treatment.

COMPENSATION

4.01 For and in consideration of the above-mentioned services, Juvenile Probation agrees to pay the Agustin Gutierrez the sum of \$1,800.00 per psychosexual evaluation and the sum of \$130.00 for each counseling session with each youth and or family member(s). While the

majority of counseling sessions will be face to face, some counseling sessions may be held virtually.

- 4.02 Reimbursement for mileage shall be at the county approved rate.
- 4.03 Reimbursement for driving time shall be at a rate of \$70.00 per hour.
- 4.04 Service Provider will submit an invoice for payment of services to Juvenile Probation on a monthly basis. Said invoice shall be submitted with 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: to be attributed to specific clients if appropriate, date service was rendered, 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.
- 4.05 When needed, Juvenile Probation shall arrange for polygraphs with the designated vendor in the Bryan, Texas area.
- 4.06 Except to the extent that a party to this Agreement seeks emergency judicial relief, the parties agree to negotiate in good faith in an effort to resolve any disputes related to this contract that may arise, no matter when the dispute may arise. If a dispute cannot be resolved by negotiation, the dispute shall be submitted to mediation before the parties resort to arbitration or litigation. The parties shall choose a mutually acceptable mediator to mediate the dispute, and the parties shall pay the costs of mediation services equally.
- 4.07 Mr. Gutierrez will keep a record of all services provided to Juvenile Probation under this agreement, and upon reasonable notice will provide information, records, papers, reports, and other documents regarding services furnished as may be requested by Juvenile Probation. Mr. Gutierrez will maintain the records (as referenced above) for seven (7) years after the termination of this Agreement.

CONFIDENTIALITY OF RECORDS

- 5.00 Mr. Gutierrez shall maintain strict confidentiality of all information and records relating to children involved in Juvenile Probation, and shall not re-disclose the information except as required to perform the services to be provided pursuant to this Contract, or as may be required by law.

DISCLOSURE OF INFORMATION

- 6.01 Mr. Gutierrez warrants that, prior to entering this Contract, he 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 Mr. Gutierrez's licensing authorities;
 - B. Any and all litigation filed against Mr. Gutierrez, or against its employees, interns, volunteers, subcontractors, agents and/or consultants that have direct contact with children;

- C. Any arrest of any employee, intern, volunteer, subcontractor, agent and/or consultant of Mr. Gutierrez that has direct contact with juveniles;
 - D. Any finding of "Reason to Believe" by a state regulatory agency in a child abuse, neglect and/or exploitation investigation where an employee, intern, volunteer, subcontractor, agent and/or consultant of Mr. Gutierrez that has direct contact with juveniles was the alleged or designated perpetrator;
- 6.02 Mr. Gutierrez agrees and understands it has an affirmative and ongoing duty to ascertain and disclose to Juvenile Probation any and all of the foregoing information as to any individual, whether a prospective or existing employee, intern, volunteer, subcontractor, agent and/or consultant of Mr. Gutierrez, prior to placing that individual in a position that involves direct unsupervised contact with juveniles in a juvenile justice facility or community setting.

EQUAL OPPORTUNITY

- 7.00 Mr. Gutierrez agrees to respect and protect the civil and legal rights of all children and their parents. He 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. Mr. Gutierrez shall abide by all applicable federal, state and local laws and regulations.

ASSIGNMENT & SUBCONTRACT

- 8.00 Mr. Gutierrez may not assign or subcontract any of his rights, duties and /or obligations arising out of this Agreement without the written consent of Juvenile Probation.

OFFICIALS NOT TO BENEFIT

- 9.00 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.

TERMINATION

- 10.01 This Agreement may be terminated:
- A. By either party upon thirty (30) days written notice to the other party of the intention to terminate; or
 - B. Upon expenditure of available funds.
- 10.02 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 Mr. Gutierrez.

WAIVER OF SUBROGATION

- 11.00 Mr. Gutierrez 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. Mr. Gutierrez also waives any rights it may have to indemnification from Juvenile Probation.

REPRESENTATIONS & WARRANTIES

- 12.01 Mr. Gutierrez hereby represents and warrants the following:
- A. That he has all necessary right, title, license, and authority to enter into this Agreement;
 - B. That he is qualified to do business in the State of Texas; that he 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 operations of his business and that there are no taxes due and owing to the State of Texas, the County of Brazos or any political subdivision thereof;
- 12.02 Mr. Gutierrez shall maintain, during the term of this contract, a \$1,000,000.00 malpractice insurance policy. Mr. Gutierrez shall provide a certificate of insurance for the policy and shall provide for a fifteen (15) day advance notice to Brazos County of the cancellation of such policy.

INSURANCE REQUIREMENTS

- 13.01 The Licensed Sex Offender Treatment Provider (Provider) shall instruct his insurance agent or carrier to furnish to the County a Certificate of Insurance attesting to the issuance of the following parts of this section. Please note that such Certificates of Insurance and must be issued and then approved by Brazos County Risk Management. The Certificate of Insurance must be approved by Risk Management before any services can be rendered.

The Provider shall furnish and keep in full force the following insurance during the term of this Contract:

Professional Liability (Errors and Omissions) Insurance appropriate to the services being provided, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate. If the Licensed Sex Offender Treatment Provider maintains broader coverage and/or higher limits than the minimums shown above, Brazos County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Provider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Brazos County.

Abuse and molestation insurance as an endorsement to the professional liability policy in a form and with coverage that are satisfactory to covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Provider is responsible including but not limited to Provider and Provider's employees and volunteers. Policy endorsement's definition of an insured shall include the Provider, and the Provider's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$1,000,000. These limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, shall be

treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.

Automotive Liability with \$300,000 CSL for Bodily Injury and \$100,000 Property Damage Liability with Brazos County named as an additional insured.

All of the aforementioned policies and Certificates of Insurance should be issued immediately after the Licensed Sex Offender Treatment Provider receives notification of award.

The Provider agrees to release and hold harmless Brazos County from any and all claims and liability due to the acts of the Provider's employees and the operation of his equipment. The Provider also agrees to hold harmless Brazos County from any and all expenses, including attorney fees, incurred by Brazos County in litigation or otherwise resisting such claims or liabilities as a result of the Provider's employees' activities. Further, the Provider agrees to protect, indemnify and hold harmless Brazos County from and against all claims, demands and causes of action of every kind and character brought by any employees of the Provider against Brazos County due to personal injuries and/or death to such employee resulting from any neglect act, by either commission or omission on the part of the Provider or Brazos County.

TEXAS LAW TO APPLY

- 14.01 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 **Brazos County, Texas**.
- 14.02 Mr. Gutierrez verifies that it does not boycott Israel and will not boycott Israel during the term of this contract.

VENUE

- 15.00 Exclusive venue for any litigation arising from this Agreement shall be in **Brazos County, Texas**.

LEGAL CONSTRUCTION

- 16.00 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.

PRIOR AGREEMENTS SUPERSEDED


- 17.00 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.

This Contract and Agreement is executed with the declared intention of the parties that this Contract and Agreement is a contract providing for the care of children who have committed an act of delinquency or an act indicating a need for supervision, and payment for such care will be made by **Juvenile Probation** for the children ordered sex offender treatment services ordered by the Judge of **Brazos County** having juvenile jurisdiction.

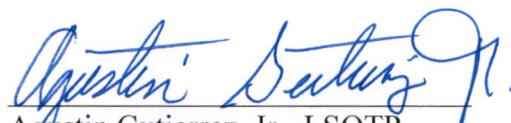
PRISON RAPE ELIMINATION ACT

18.00 *If applicable*, Mr. Gutierrez shall adopt and comply with all federal, state, county, and city laws, ordinances, regulations and standards applicable to the provision of services described herein and the performance of all obligations undertaken pursuant to this Contract, including the Prison Rape Elimination Act of 2003 (PREA) which establishes a zero-tolerance standard against sexual assault of incarcerated persons, including juveniles, and addresses the detection, elimination, prevention, and reporting of sexual assault in facilities housing adult and juvenile offenders. [PREA §115.312(a)].

Brazos County
Probation Department


Linda Ricketson
Chief Juvenile Probation Officer

Licensed Sex Offender Treatment Provider


Agustin Gutierrez, Jr. -LSOTP

Brazos County Commissioners Court

ON _____, 20_____, FULLY EXECUTED, EACH OF
WHICH SHALL HAVE THE FULL FORCE AND EFFECT OF AN ORIGINAL.

By: _____
Duane Peters, County Judge
Juvenile Board Chair
200 S. Texas Ave., Ste. 332
Bryan, TX 77803
Phone: 979-361-4102
Fax: 979-361-4503