

MAR 22 2021

**Approved**

**REQUEST FOR AGENDA PLACEMENT FORM**

**Submission Deadline - Tuesday, 12:00 PM before Court Dates**

**SUBMITTED BY:** Cristy Malott  
**TODAY'S DATE:** 03/12/2021

**DEPARTMENT:** Juvenile Services

**SIGNATURE OF DEPARTMENT HEAD:** 

**REQUESTED AGENDA DATE:** 03/22/2021

**SPECIFIC AGENDA WORDING:** Consideration of Contract and Agreement for Secure Long-Term and Short-Term Residential Service for Juvenile Offenders Hays County

**PERSON(S) TO PRESENT ITEM:** Cristy Malott

**SUPPORT MATERIAL:** (Must enclose supporting documentation)

**TIME:** 1 min  
(Anticipated number of minutes needed to discuss item)

|                     |          |
|---------------------|----------|
| <b>ACTION ITEM:</b> | <u>X</u> |
| <b>WORKSHOP</b>     | _____    |
| <b>CONSENT:</b>     | _____    |
| <b>EXECUTIVE:</b>   | _____    |

**STAFF NOTICE:**

|                                  |                                     |
|----------------------------------|-------------------------------------|
| <b>COUNTY ATTORNEY:</b> <u>X</u> | <b>IT DEPARTMENT:</b> _____         |
| <b>AUDITOR:</b> _____            | <b>PURCHASING DEPARTMENT:</b> _____ |
| <b>PERSONNEL:</b> _____          | <b>PUBLIC WORKS:</b> _____          |
| <b>BUDGET COORDINATOR:</b> _____ | <b>OTHER:</b> _____                 |

\*\*\*\*\*This Section to be Completed by County Judge's Office\*\*\*\*\*

ASSIGNED AGENDA DATE: \_\_\_\_\_

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE \_\_\_\_\_

COURT MEMBER APPROVAL \_\_\_\_\_ Date \_\_\_\_\_

STATE OF TEXAS  
COUNTY OF HAYS

§  
§  
§

**CONTRACT AND AGREEMENT FOR SECURE  
LONG-TERM AND SHORT-TERM  
RESIDENTIAL SERVICE OF JUVENILE OFFENDERS**

This Agreement is entered into by and between the **Hays County Juvenile Board**, at the request of and on behalf of the **Hays County Juvenile Center** (collectively referred to as "Service Provider") and the County of **JOHNSON**, (hereinafter referred to as the "Placing County") acting by and through its duly authorized representative, as indicated by their signatures below.

**ARTICLE I  
PURPOSE**

- 1.01 The purpose of this Residential Services Agreement is to provide Placing County with residential care for children alleged or adjudicated to have committed delinquent conduct or conduct indicating a need for supervision. The placement facility to be utilized, **Hays County Juvenile Center**, is owned and operated by Service Provider and is located at **2250 Clovis Barker Road, San Marcos, Texas 78666**. The business office address of Service Provider is also **2250 Clovis Barker Road, San Marcos, Texas 78666**.

**ARTICLE II  
TERM**

- 2.01 The term of this Agreement is for **twelve (12) months**, commencing **September 1, 2020**, and ending **August 31, 2021**. It shall be automatically renewed for one year terms thereafter, commencing **September 1<sup>st</sup>** and ending **August 31<sup>th</sup>**, unless one party notifies the other in writing, at least thirty (30) days prior to the expiration of said term, of its intention to not renew this Agreement.
- 2.02 The terms of this Agreement shall be extended until such time as all services which have been requested by Placing County, and are pending on the termination date in section 2.01 above, have been performed.

**ARTICLE III  
SERVICES**

- 3.01 Service Provider will provide the appropriate levels of care for the behavioral levels of service as described in the Texas Administrative Code (TAC) Chapter 700, Service Level Descriptions. Levels of Care requires the facility meet all applicable standards under Title 37 Texas Administrative Code, as approved by TJJD, and if secure, be certified by the local juvenile board to qualify.

**Levels of Care:**

Detention – Pre-Adjudication

Specialized - Post-Adjudication

3.02 Service Provider will perform the following services:

- A. Provide basic residential child care services, including: standard supervision by qualified adults, food and snacks, clothing, recreation, personal hygiene items, haircuts, transportation, school supplies, educational and vocational activities, medically necessary health services, and miscellaneous, as requested by Placing County.
- B. Special treatment services, including behavior management, diagnostic services, therapeutic counseling and psychiatric consultation.
- C. Ensure that the child's parent(s) or legal guardian(s), and Placing County's placement officer is notified immediately if a child in placement makes an unauthorized departure, becomes seriously ill, or is involved in a serious accident. In the event of serious illness or accident and for any required follow-up care, Service Provider shall be responsible for having the child transported to the nearest hospital or emergency care facility.
- D. Work with Placing County's placement officer to create a written **Individualized Treatment/Case Plan** developed in concert with the client and mutually agreed upon by the appropriate Service Provider staff and the Probation Officer within thirty (30) days of placement. Said Individualized Treatment/Case Plan shall include measurement of progress toward goals in the following nine (9) domains: medical; safety and security; recreational; educational; mental/behavioral health; relationship; socialization; permanence; parent and child participation.
- E. Coordinate and document meetings to review the **Individualized Treatment Plan** with the child and the assigned probation placement officer at reasonable intervals, not to exceed ninety (90) days, to assess the child's progress toward meeting goals set forth, making modifications when necessary, and determining the need for continued placement outside of the child's natural home. The Individualized Treatment Plan shall contain the reasons why the placement may benefit the client; shall specify behavioral goals and objectives being sought for each client; shall state how the goals and objectives are to be achieved in the placement; shall state how the parent(s), guardian(s), and, where possible, grandparents and other extended family members will be involved in the program plan to assist in preventing or controlling the child's objectionable behavior.
- G. Provide the probation placement officer with a written report of the child's progress on a monthly basis in a Monthly Progress Report.

ARTICLE IV  
**EVALUATION CRITERIA**

- 4.01 The Individual Treatment Plan for each child must contain specific behavior **goals** and services that are appropriate to the child and enable the child to develop to his/her fullest potential. This

development will be through the provision of a safe, drug-free environment in which counseling services are utilized as tools for educational, emotional and behavioral catharsis.

A. **Output measures** may include, but are not limited to:

1. Average length of stay.
2. Average daily population.
3. Average number of counseling hours provided each child daily, weekly or monthly.
4. Average number of educational hours provided each child daily, weekly or monthly.

B. **Outcome measures** may include, but are not limited to:

1. 80% of children in placement will complete their placement as a successful discharge.
2. 80% of children in placement will report improved family communication/functioning while in placement.
3. 80% of children in placement will demonstrate progress in a majority of goals outlined in the Individual Treatment Plan.

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

#### ARTICLE V COMPENSATION

5.01 For and in consideration of the above-mentioned services, Placing County agrees to pay Service Provider not more than the per diem rates based upon the Level of Care provided, in accordance with schedule of rates for 24-Hour Residential Child Care set by the Texas Health and Human Services Commission as currently effective or subsequently amended with the exception of Detention services. **IF the Level of Care rates change during the contract year, new Level of Care rates will be paid and become effective September 1 after the new Level of Care rates become effective.** The Service Provider will send notice to the Placing County the new Level of Care rates prior to September 1.

5.02 The Placing County agrees to pay Service Provider the sum of **\$140.00** per day for each space utilized in **Detention services**. The Placing County agrees to pay Service Provider the sum of **\$197.00** per day for each space utilized in the **Specialized Post-Adjudication programs**: Academy program, SPRinG program, Juvenile Intensive Treatment Program (JITP), Mental Health Program (MH) and the Sex Offender Residential Treatment program (SORT). The daily cost being based on the projected actual cost of care for children in the facility.

5.03 The rate fee will be paid only for those children specifically authorized to be placed by Placing County through its Fiscal Officer or other designated official.

5.04 Service Provider will submit an invoice for payment of services to the Placing County 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: hours worked, to be attributed to specific clients if appropriate, date service was rendered, hourly rate, total daily cost, and total monthly cost. Each invoice received for payment will be reviewed by Placing County in order to monitor Service Provider for financial compliance with this Agreement. Invoices submitted by Service Provider in proper form shall be paid by Placing County in a timely manner.

- 5.05 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 Placing County. Documentation must include the name(s) of the parties receiving the services, the dates and times services were provided and such other information deemed necessary for adequate fiscal control.
- 5.06 Placing County recognizes that part of a client's rehabilitation program may include time away from the residential setting of Service Provider, such as weekends and holidays, and that Service Provider must retain space for the client until his/her return. To this end, Placing County agrees to pay Service Provider the full amount due for such regularly scheduled days away from the residential setting or its program, provided they do not exceed four (4) days per month per client and that prior approval has been obtained by Placing County. Furloughs will not be authorized for the first ninety (90) days of placement, or until the completion of the first Individualized Program Plan Review, whichever comes first, except in only highly unusual situations. Unoccupied bed space constitutes days away from the facility. Individual Treatment Plans may warrant additional days away from the residential setting if approved in writing by Placing County; however, any additional days away from the residential setting will not be charged to Placing County.
- 5.07 The child's parent(s) or guardian(s) shall bear the primary responsibility for payment of any medical or dental needs, by personal payment, health insurance, or Medicaid coverage, as well as clothing or other expenses not provided for in Service Provider's program. Medical or dental care not covered by other funding sources must be submitted for written approval by Placing County for payment prior to the expenditures being incurred.
- 5.08 Services provided that effect payment that are not directly addressed by this Agreement must have prior written approval from Placing County.

ARTICLE VI  
EXAMINATION OF PROGRAM AND RECORDS

- 6.01 Service Provider agrees that it will permit Placing County 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 provide to Placing County such descriptive information on contracted children as requested on forms provided by Placing County.
- 6.03 For purposes of evaluation, inspection, auditing or reproduction, Service Provider agrees to maintain and make available to an authorized representative of the State of Texas or Placing County any and all books, documents or other evidence pertaining to the costs and expenses of this Agreement.

- 6.04 Service Provider shall retain and make available to Placing County all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a minimum of seven (7) years, or until any pending litigation, claim, audit or review and all questions arising there from have been resolved, and shall make available for Placing County's inspection, all contractual agreements with Service Provider's subcontractors for services related to this Agreement.
- 6.05 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 children involved in Placing County, 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  
PRISON RAPE ELIMINATION ACT OF 2003 (PREA)

- 8.01 **The Service Provider has a zero tolerance towards all forms of sexual abuse and sexual harassment in accordance with the provisions of the Prison Rape Elimination Act of 2003 that provides for administrative and/or criminal disciplinary sanctions.** The Service Provider shall adopt policies and comply with the Prison Rape Elimination Act of 2003 (28 CFR §115) standards and shall permit the Placing County to monitor its facility and records as necessary to ensure that the Service Provider is complying with said standards.
- 8.02 Service Provider 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 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.
- 8.03 Under PREA, Service Provider shall make available to the Chief Juvenile Probation Officer of the Placing County all incident-based aggregated data reports for every allegation of sexual abuse at its facility, and all such data may be requested by the Department of Justice from the previous calendar year no later than June 30 (PREA Sec. 115.387(e) and (f)). The Service Provider shall report to the Placing County in writing within 15 days any positive findings by a court or governmental agency that the Service Provider has violated a relevant federal statute or rule.
- 8.04 Service Agency shall be responsible for the financial cost associated with any PREA audit.

**ARTICLE IX**  
**REPORTING ABUSE REQUIREMENTS**

- 9.01 Service Provider shall ensure that all of its employees, interns, volunteers, subcontractors, agents and/or consultants that have contact with juveniles in a juvenile justice facility or juvenile justice program will be properly trained to recognize and shall report all suspected or alleged incidents of abuse, neglect, exploitation, death or serious incidents involving a juvenile under the supervision of Placing County in accordance with the requirements of Texas Family Code Chapter 261 and any applicable Texas Juvenile Justice Department administrative rules regarding abuse, neglect, exploitation, death or serious incident.
- 9.02 Service Provider shall notify Placing County immediately of any abuse, neglect, exploitation, death or serious incidents involving a juvenile under the supervision of Placing County.

**ARTICLE X**  
**DISCLOSURE OF INFORMATION**

- 10.01 Service Provider warrants that, prior to entering this contract, it has verified and disclosed the following information to Placing County, 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 Placing County:
- A. any and all corrective action required by any of Service Provider's licensing authorities;
  - B. any and all litigation filed against Service Provider, or against its employees, interns, volunteers, subcontractors, agents and/or consultants that have direct unsupervised contact with juveniles; and
  - C. any pending or initiated criminal or governmental investigations and results/findings related to Service Provider, or against its employees, interns, volunteers, subcontractors, agents and/or consultants that have direct unsupervised contact with juveniles.

**ARTICLE XI**  
**EQUAL OPPORTUNITY**

- 11.01 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 XII**  
**ASSIGNMENT & SUBCONTRACT**

- 12.01 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 Placing County.

**ARTICLE XIII**  
**OFFICIALS NOT TO BENEFIT**

- 13.01 No officer, employee or agent of Service Provider 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 out 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 XIV**  
**DEFAULT**

- 14.01 Placing County 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, and
  - 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.
- 14.02 Any default by Service Provider, regardless of whether the default results in termination, will jeopardize Service Provider's ability to contract with Placing County in the future, and may result in the refund of compensation received under this Agreement.

**ARTICLE XV**  
**TERMINATION**

- 15.01 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.
- 15.02 If at any time during the term of this agreement Placing County, in its sole discretion, determines that the safety of children being served under this Agreement may be in jeopardy, Placing County may immediately suspend the effect of this Agreement, including but not limited to the obligation to pay, upon giving notice to the Service Provider.
- 15.03 Service Provider must not release a client to any person or agency other than Placing County without the express written consent of an authorized agent of Placing County.

**ARTICLE XVI**  
**WAIVER OF SUBROGATION**

- 16.01 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 Placing County.



Service Provider also waives any rights it may have to indemnification from Placing County.

**ARTICLE XVII**  
**INDEMNIFICATION**

- 17.01 The Service Provider shall indemnify, save and hold harmless the Placing County, its officers, agents, and employees from all suits, actions, losses, damages, claims, or liability of any character, type, or description, including without limiting the generality of the foregoing all expenses of litigation, court costs, and attorney's fees for injury or of the foregoing all expenses of litigation, court costs, and attorney's fees for injury or death to any person, or injury to property, received or sustained by any person or persons or property, arising out of, or occasioned by, directly or indirectly, the acts or omissions of the Service Provider, its agents, servants, employees, consultants, or invitees, in the execution or performance of this Contract.
- 17.02 In the event that any claim, suit, or other action is made or brought by any person, firm, corporation, or other entity against the Service Provider or County, the Service Provider shall give written notice to the Placing County of any such claim, demand, suit or other action within three (3) working days after being notified of such claim, demand, suit or other action or the threat thereof.

**ARTICLE XVIII**  
**SOVEREIGN IMMUNITY**

- 18.01 This Agreement is expressly made subject to **Hays 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 **Hays County** has by operation of law. Nothing in this Agreement is intended to benefit any third party beneficiary.

**ARTICLE XIX**  
**REPRESENTATIONS & WARRANTIES**

- 19.01 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 **Hays**, or any political subdivision thereof;
  - C. that it carries sufficient insurance to provide protection to **Hays County** and **Placing County** under the indemnity provisions, as well as for any potential liabilities that arise from or related to this Agreement;
  - D. that it shall provide **Placing County** with documentation confirming that Service Provider's license is currently in good standing with the licensing entity and shall not provide services under this agreement unless its license is in good standing; and

- E. that Service Provider is a vendor in good standing with Texas Comptroller of Public Accounts, if applicable.

ARTICLE XX  
TEXAS LAW TO APPLY

- 20.01 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 **Hays County, Texas**.

ARTICLE XXI  
VENUE

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

ARTICLE XXII  
ADDITIONAL TERMS AND AGREEMENTS

- 22.01 Service Provider shall comply with all applicable federal and state laws and regulations, Placing County policies, procedures, and administrative rules, and Texas Juvenile Justice Department standards pertinent to services provided under this Agreement.
- 22.02 Pursuant to Section 231.006 of the Texas Family Code, the Service Provider certifies that it is not ineligible to receive the state-funded grant, loan, or payment and acknowledges that this Agreement may be terminated and payment may be withheld if the certification is inaccurate.
- 22.03 Service Provider is hereby notified that state funds are used to pay for services rendered to Placing County. For this reason, Service Provider shall account separately for the receipt and expenditure of all funds received from Placing County, and shall adhere to Generally Accepted Accounting Principles (GAAP) in the accounting, reporting and auditing of such funds.
- 22.04 Service Provider has not, and will not boycott Israel during the term of this Agreement. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

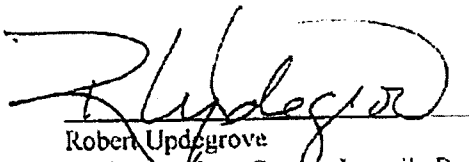
ARTICLE XXIII  
LEGAL CONSTRUCTION

- 23.01 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 XXIV  
PRIOR AGREEMENTS SUPERSEDED

24.01 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.

Executed this the 16 day of May, 2021 each copy hereof shall be considered an original copy for all purposes.



Robert Updegrave  
Chairman, Hays County Juvenile Board  
Hays County Justice Center, Room 177  
San Marcos, Texas 78666



Brett Littlejohn  
Administrator, Hays County Juvenile Center  
2250 Clovis Barker Rd.  
San Marcos, Texas 78666



Official Authorized to Sign

Cristy Malott  
Printed Name

Title: Director

Johnson COUNTY



Official Authorized to Sign

Robert Magister  
Printed Name

Title: Juvenile Board Chairman

Johnson COUNTY



Johnson County Judge