

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT ("AGREEMENT") is made this 17th day of January, 2024, between the 18th Judicial Circuit's Department of Probation and Court Services, 503 N. County Farm Road, Wheaton, Illinois, 60187 ("Department") and Dr. Michaela Mozley, an Independent Contractor, ("Contractor"), address at 801 S. Financial Place, Apartment #709, Chicago, IL 60605.

RECITALS

WHEREAS, the Department has need for assessment and evaluation of offenders in the court system, specifically for sexual offending risk assessments and various other related evaluation services of offenders that are appearing before the court, to be completed upon mutual agreement between the parties; and

WHEREAS, in order to fully provide such services, the Department must contract with certain evaluators who are licensed to provide such services to the court; and

WHEREAS, the Contractor has demonstrated expertise in providing such services, has represented that she has the requisite knowledge, skill, experience and other resources necessary to perform such services and is desirous of providing such services for the Department.

NOW, THEREFORE, in consideration of the premises, the mutual covenants, terms and conditions herein set forth, and the understandings of each party to the other, the parties do hereby mutually covenant, promise and agree as follows:

1. Incorporation and Construction

- 1.1 All recitals set forth above are incorporated herein and made a part thereof, the same constituting the factual basis for this AGREEMENT.
- 1.2 The headings of the paragraphs and subparagraphs of this AGREEMENT are inserted for convenience of reference only and shall not be deemed to constitute part of the AGREEMENT or to affect the construction hereof.
- 1.3 The exhibits referenced in this AGREEMENT shall be deemed incorporated herein and a part hereof.

2. Term:

- 2.1 The term of this AGREEMENT shall begin on the date referenced above and shall continue in full force and effect until the earlier of the following occurs:
 - (a) The early termination of this AGREEMENT in accordance with the terms of Section 6, or
 - (b) The expiration of this AGREEMENT on January 16, 2025 or to a new date agreed upon by the parties.

3. **Scope of Services:** Services are required as set forth in Exhibit A, Scope of Services, attached hereto and made part hereof, including the deliverables set forth thereon in accordance with the terms and conditions of this AGREEMENT,. The Department may, from time to time, request changes in the Scope of Services. Any such changes, including any increase or decrease in Contractor's fees, shall be documented by an amendment to this AGREEMENT in accordance with State and County laws. Contractor agrees to provide the services to the Department at the sites set forth in Exhibit B, attached hereto and made part hereof.
4. **Compensation and Payment:** The Department shall pay the Contractor for services rendered and shall only pay in accordance with the provisions of this AGREEMENT. The Department shall not be obligated to pay for any services not in compliance with this AGREEMENT. Compensation for Services during the term shall be based on an hourly rate of \$45.00 and shall not exceed twenty-three thousand four hundred dollars, (\$23,400.00). In the event of early termination of this AGREEMENT, the Department shall only be obligated to pay the fees incurred up to the date of termination. In no event shall the Department be liable for any costs incurred or Services performed after the effective date of termination as provided herein. Contractor shall submit invoices referencing this AGREEMENT with such supporting documentation as may be requested by the Department on a not more often than monthly basis, and no later than sixty (60) days following completion of the work being invoiced. The Contractor shall provide the Department with a valid taxpayer identification number prior to making any request for compensation. The Department will process payment in its normal course of business. Payment will not be made on invoices submitted later than six months (180 days) after the expiration date of this AGREEMENT and any statute of limitations to the contrary is hereby waived.
5. **Non-appropriation:** Expenditures not appropriated in the current fiscal year budget are deemed to be contingent liabilities only and are subject to appropriation in subsequent fiscal year budgets. In the event sufficient funds are not appropriated in a subsequent fiscal year by the Department for performance under this AGREEMENT, the Department shall notify Contractor and this AGREEMENT shall terminate on the last day of the fiscal period for which funds were appropriated. In no event shall the Department be liable to the Contractor for any amount in excess of the cost of the services rendered up to and including the last day of the fiscal period.
6. **Termination:**
 - 6.1 Either party shall have the right to terminate this AGREEMENT for cause or without cause thirty (30) days after having served written notice upon the other party, except in the event of Contractor's failure to maintain suitable insurance at the requisite coverage amounts, insolvency, bankruptcy or receivership, or if the Contractor is barred from contracting with any unit of government, or is subsequently convicted or charged with a violation of any statute or ordinances, in which case termination shall be effective immediately upon receipt of notice from the Department, at the Department's election.
 - 6.2 Upon such termination, the liabilities of the parties to this AGREEMENT shall cease, except surviving insurance and indemnification obligations, but they shall not be

relieved of the duty to perform their obligations up to the date of termination, or to pay for services rendered prior to termination. There shall be no termination expenses.

- 6.3 Upon termination of this AGREEMENT, all data, work products, reports and documents produced, because of this AGREEMENT shall become the property of the Department. Further, Contractor shall provide all deliverables within fourteen (14) days of termination in accordance with the other provisions of this AGREEMENT.

7. **Entire Agreement:**

- 7.1 This AGREEMENT, including matters incorporated herein, contains the entire agreement between the parties.
- 7.2 There are no other covenants, warranties, representations, promises, conditions or understandings; either oral or written, other than those contained herein.
- 7.3 This AGREEMENT may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.
- 7.4 In event of a conflict between the terms or conditions of this AGREEMENT and any term or condition found in any exhibit or attachment, the terms and conditions of this AGREEMENT shall prevail.

8. **Standards of Performance:** Contractor agrees to devote such time, attention, skill, and knowledge as is necessary to perform Services effectively and efficiently. Contractor acknowledges and accepts a relationship of trust and confidence with the Department and agrees to cooperate with the Department in performing Services to further the best interests of the Department.

9. **Breach of Contract:** In the event of any breach of contract, the non-breaching party shall give notice to the breaching party stating with particularity the nature of the alleged breach. The breaching party shall be allowed a reasonable opportunity to cure the breach. A Party's failure to timely cure any material breach of this AGREEMENT shall relieve the other Party of the requirement to give thirty (30) day notice for termination of this AGREEMENT in accordance with Paragraph 6, above. Whenever a Party hereto has failed to timely cure a breach of this AGREEMENT, the other Party may terminate this AGREEMENT by giving ten (10) days written notice thereof to the breaching party. Notwithstanding the above term, the Contractor's failure to maintain insurance in accordance with Section 16 below, or in the event of any of the contingencies described in Paragraph 16.1, shall be grounds for the Department's immediate termination of this AGREEMENT.

10. **Assignment:** This AGREEMENT shall be binding on the parties and their respective successors and assigns, provided however, that neither party may assign this AGREEMENT or any obligations imposed hereunder without the prior written consent of the other party.

11. **Confidentiality and Ownership of Documents:**

11.1 Confidential Information. In the performance of Services, Contractor may have access to certain information that is not generally known to others ("Confidential Information"). Contractor agrees not to use or disclose to any third party, except in the performance of Services, any Confidential Information or any records, reports or documents prepared or generated as a result of this AGREEMENT without the prior written consent of the Department. Contractor shall not issue publicity news releases or grant press interviews, except as may be required by law, during or after the performance of the Services, nor shall Contractor disseminate any information regarding Services without the prior written consent of the Department. Contractor agrees to cause its personnel, staff and/or subcontractors, if any, to undertake the same obligations of confidentiality agreed to by Contractor under this AGREEMENT. The terms of this Paragraph 11.1 shall survive the expiration or termination of this AGREEMENT.

11.2 Ownership. All records, reports, documents, and other materials prepared by Contractor in performing Services, as well as all records, reports, documents, and other materials containing Confidential Information prepared or generated as a result of this AGREEMENT, shall at all times be and remain the property of the Department. All of the foregoing items shall be delivered to the Department upon demand at any time and in any event, shall be promptly delivered to the Department upon expiration or termination of the AGREEMENT. In the event any of the above items are lost or damaged while in Contractor's possession, such items shall be restored or replaced at Contractor's expense.

12. **Representations and Warranties of Contractor:** Contractor represents and warrants that the following shall be true and correct as of the effective date of this AGREEMENT and shall continue to be true and correct during the Term of this AGREEMENT.

12.1 Compliance with Laws. Contractor is and shall remain in compliance with all local, state and federal laws, County of DuPage ordinances, and regulations relating to this AGREEMENT and the performance of Services. Further, Contractor is and shall remain in compliance with all County and Department policies and rules, including, but not limited to, criminal background checks.

12.2 Good Standing. Contractor is not in default and has not been deemed by the Department to be in default under any other AGREEMENT with the Department during the five (5) year period immediately preceding the effective date of this AGREEMENT.

12.3 Authorization. In the event Contractor is an entity other than a sole proprietorship, Contractor represents that it has taken all action necessary for the approval and execution of this AGREEMENT, and execution by the person signing on behalf of Contractor is duly authorized by Contractor and has been made with complete and full authority to commit Contractor to all terms and conditions of this AGREEMENT which shall constitute valid, binding obligations of Contractor.

12.4 Gratuities. No payment, gratuity or offer of employment, except as permitted by the Illinois State Gift Ban Act, was made by or to Contractor in relation to this AGREEMENT or as an inducement for award of this AGREEMENT.

13. **Independent Contractor:** It is understood and agreed that the relationship of Contractor to the Department is and shall continue to be that of an independent contractor and neither Contractor nor any of Contractor's employees shall be entitled to receive Department employee benefits. As an independent contractor, Contractor agrees to be responsible for the payment of all taxes and withholdings specified by law, which may be due in regard to compensation paid by the Department. Contractor agrees that neither Contractor nor its employees, staff or subcontractors shall represent themselves as employees or agents of the Department. Contractor hereby represents that Contractor's valid taxpayer identification number as defined by the United States Internal Revenue Code (social security number or federal employer identification number) was or will be provided to the Department upon request.

14. **Indemnification:**

14.1 The Contractor shall indemnify, hold harmless and defend the Department and the County of DuPage, their officials, officers, employees, and agents from and against all liability, claims, suits, demands, proceedings and actions, including costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or directly connected with, the Contractor's negligent or willful misconduct, errors or omissions in its, or their, performance under this AGREEMENT.

14.2 Nothing contained herein shall be construed as prohibiting the Department and the County of DuPage, their officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. The Department's and/or County of DuPage's participation in its defense shall not remove Contractor's duty to indemnify, defend, and hold the Department harmless, as set forth above.

14.3 Any indemnity as provided in this AGREEMENT shall not be limited by reason of the enumeration of any insurance coverage herein provided. Contractor's indemnification of Department and the County of DuPage shall survive the termination, or expiration, of this AGREEMENT.

14.4 The Department and the County of DuPage does not waive, by these indemnity requirements, any defenses or protections under the Local Government and Governmental Employees Tort Liability Act (745 ILCS 10/1, et seq.) or otherwise available to it, or the Contractor, under the law.

15. **Favored Nation:** Contractor shall furnish Services to the Department at the lowest price that the Contractor charges to other similarly situated parties. If Contractor overcharges, in addition to all other remedies, the Department is entitled to a refund in the amount of the overcharge, plus interest at the rate of 1% per month from the date the overcharge was paid by the Department until the date refund is made. The Department has the right to offset any overcharge against any amounts due to Contractor under this or any other AGREEMENT between Contractor and the Department, and at the Department's sole option the right to declare Contractor in default under this AGREEMENT.

16. **Contractor's Insurance:**

- 16.1 The Contractor shall maintain, at its sole expense, insurance coverage including: Professional Liability Insurance (Errors and Omissions) with minimum limits of at least one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) aggregate during the term of this AGREEMENT. In addition, coverage shall be provided in the minimum amount of one million (\$1,000,000) and shall be maintained for a period of four (4) years after the date of the final payment for this AGREEMENT.
- 16.2 It shall be the duty of the Contractor to provide to the Department and the County of DuPage, copies of the Contractor's Certificates of Insurance, as well as all applicable coverage and cancellation endorsements before issuance of a Notice of Proceed. It is further duty of the Contractor to immediately notify the Department and County of DuPage if any insurance required under this AGREEMENT has been cancelled, materially changed, or renewal has been refused, and the Contractor shall immediately suspend all work in progress and take the necessary steps to purchase, maintain and provide the required insurance coverage. If a suspension of work should occur due to insurance requirements, upon verifications by the Department or the County of DuPage of the Contractor curing any breach of its required insurance coverage, the Department or the County of DuPage shall notify the Contractor that the Contractor can resume work under this AGREEMENT. The Contractor shall accept and bear all costs that may result from the cancellation of this AGREEMENT due to Contractor's failure to provide and maintain the required insurance.
- 16.3 The Contractor shall require all approved sub-contractor, anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable under this AGREEMENT to maintain the same insurance required of the Contractor. The Department and the County of DuPage retain the right to obtain evidence of subcontractors' insurance coverage at any time.

17. **Authority to Contract:** Contractor represents and warrants to the best of her knowledge that she is permitted to enter into this AGREEMENT and perform the obligations contemplated hereto, including all of the Exhibits, and that this AGREEMENT and the terms and obligations hereof are not inconsistent with any other obligations Contractor may have. Contractor further warrants and represents that she has no conflicting public or private interest with the services to be provided under this AGREEMENT and shall not acquire directly or indirectly any such interest which would conflict in any manner with his/her performance under this AGREEMENT.

18. **Modification or Amendment:** The parties may modify or amend terms of this AGREEMENT only by a written document duly approved and executed by both parties.

19. **Severability:**

- 19.1 In the event, any provision of this AGREEMENT is held to be unenforceable or invalid for any reason, the enforceability thereof shall not effect the remainder of the AGREEMENT. The remainder of this AGREEMENT shall be construed as if not containing the particular provision and shall continue in full force, effect and enforceability, in accordance with its terms.

19.2 In the event of the contingency described in Paragraph 19.1 above, the parties shall make a good faith effort to amend this AGREEMENT pursuant to Paragraph 18 above, in order to remedy and, or, replace any provision declared unenforceable or invalid.

20. **Notices:** All notices required under this AGREEMENT shall be in writing and sent to the addresses and persons set forth below, or to such other addresses as may be designated by a party in writing. All notices shall be deemed received when (i) delivered personally; (ii) sent by confirmed telex or facsimile (followed by the actual document); or (iii) one (1) day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt.

IF TO THE DEPARTMENT:

Robert McEllin, Director
Department of Probation and Court Services
503 North County Farm Road
Wheaton, IL 60187

Copy to: DuPage County Procurement Services Division
421 North County Farm Road
Wheaton, IL 60187-3978

Copy to: Du Page County Finance Department
421 North County Farm Road
Wheaton, IL 60187
Attn: Jeffrey Martynowicz, CFO

IF TO CONTRACTOR:

Dr. Michaela Mozley
801 S. Financial Place Apartment #709
Chicago, IL 60605

21. **Governing Law:**

21.1 The laws of the State of Illinois shall govern this AGREEMENT as to both interpretation and performance.

21.2 The venue for resolving any disputes concerning the parties' respective performance, or failure to perform, under this AGREEMENT, shall be the judicial circuit court for DuPage County.

22. **Waiver:** The parties agree that the waiver of, or failure to enforce, any breach of this AGREEMENT by the remaining party shall not be construed, or otherwise operate, as a waiver of any future breach of this AGREEMENT. Further the failure to enforce any particular breach shall not bar or prevent the remaining party from enforcing this AGREEMENT with respect to a difference breach.

23. County Approval: If applicable, this AGREEMENT is subject to approval of the appropriate committee(s) and County Board of the County of DuPage.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their duly authorized representatives as of the date first above written.

DEPARTMENT

By: Signature on file _____

Robert McEllin, Director

CONTRACTOR

By: Signature on file _____

Dr. Michaela Mozley

Exhibit A

SCOPE OF SERVICES

Contractor agrees to work with Dr. Kristin Schoenbach, the Department's Forensic Psychologist and/or designated DEPARTMENT personnel at sites referenced in Exhibit A to deliver services on behalf of the Department consistent with the demands of her profession. Services include the following:

1. DESCRIPTION OF INDIVIDUAL'S WORK:

Services include the following:

- Complete court-ordered sexual offending risk assessments of adult defendants, minor respondents, parents and/or adult caretakers.
- Administer comprehensive psychological testing of referrals from the Court.
- Independently provide the Court with written reports and clinical summaries including relevant opinions and recommendations.
- Provide direct in-court expert testimony as required.
- Maintain confidential records of referred individuals.
- Maintain adequate psychological tests and related materials.
- It is anticipated that the services enumerated above will average 10 hours per week but shall not exceed 10 hours per week.

2. MILESTONE/DELIVERABLE INFORMATION:

- Prepare and submit monthly reports outlining activities.

Exhibit B

CONTRACT SITES SUBJECT TO THIS AGREEMENT

Contractor agrees to provide services on-site at the following contract sites. Contractor will render services in accordance with the Scope of Services in Exhibit A for the effective dates set forth below:

Contract Sites

Effective Dates of Service

18th Judicial Courthouse and Annex
505 North County Farm Road
Wheaton, Illinois 60187

1/17/2024 to 1/16/2025

Department of Probation and Court Services
503 N. County Farm Road
Wheaton, Illinois 60187

Other Sites as necessary to complete an examination.

Exhibit C

RATE SCHEDULE

Contractor understands and agrees that she will provide services for designated number of hours as determined and approved by the Department. In consideration for the provision of Contractor services, the Department shall compensate Contractor as set forth below.

Rate

\$45.00/hour for approximately 10 hours per week not to exceed \$23,400.00.