

AGENDA ITEM

2010

18A

FORT BEND COUNTY ~~FY 2009~~ COMMISSIONERS COURT AGENDA REQUEST FORM

Return Completed Form by E-Mail to: Agenda Coordinator, County Judge's Office

Date Submitted: 10/14/09

Submitted By: Nicole Mehrens

Department: SHERIFF

Court Agenda Date: 10/20/09

Phone Number: 281-341-4555

SUMMARY OF ITEM:

Take all appropriate action on Amendment to Agreement between Fort Bend County and Seth W. Silverman, M.D., P.A., effective for a one-month period beginning October 1, 2009 with automatic renewal on a monthly basis.

RENEWAL AGREEMENT/APPOINTMENT

YES ☒ NO ☐

REVIEWED BY COUNTY ATTORNEY'S OFFICE:

YES ☒ NO ☐

List Supporting Documents Attached:

FINANCIAL SUMMARY:

BUDGETED ITEM: YES ☐ NO ☐

FUNDING SOURCE: Accounting Unit: Account Number:
Activity (If Applicable):

DESCRIPTION OF LAWSON ACCOUNT: _____

Instructions to submit Agenda Request Form:

- Completely fill out agenda form: incomplete forms will not be processed.
- Agenda Request Forms should be submitted by e-mail, fax, or inter-office mail, and all back-up information must be provided by Wednesday at 2:00 p.m. to all those listed below.
- All original back-up must be received in the County Judge's Office by 2:00 p.m. on Wednesday.

DISTRIBUTION:

Original Form Submitted with back up to County Judge's Office ☐ (✓ when completed)

If by E-Mail to ospindon@co.fort-bend.tx.us

If by Fax to (281) 341-8609

Distribute copies with back-up to all listed below. If by fax, send to numbers below:

<input checked="" type="checkbox"/> Auditor (281-341-3774)	<input checked="" type="checkbox"/> Comm. Pct. 1 (281-342-0587)
<input checked="" type="checkbox"/> Budget Officer (281-344-3954)	<input checked="" type="checkbox"/> Comm. Pct. 2 (281-403-8009)
<input checked="" type="checkbox"/> Facilities/Planning (281-633-7022)	<input checked="" type="checkbox"/> Comm. Pct. 3 (281-242-9060)
<input checked="" type="checkbox"/> Purchasing Agent (281-341-8642)	<input checked="" type="checkbox"/> Comm. Pct. 4 (281-980-9077)
<input checked="" type="checkbox"/> Information Technology (281-341-4526)	<input checked="" type="checkbox"/> County Clerk (281-341-8697)
<input checked="" type="checkbox"/> Other: <u>Milton Wright, Sheriff</u>	<input checked="" type="checkbox"/> County Atty. (281-341-4557)

RECOMMENDATION / ACTION REQUESTED:

Special Handling Requested (specify):

10-27-09 2 origs. ret. to Nicole at Co. Attorney

STATE OF TEXAS

COUNTY OF FORT BEND

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KNOW ALL MEN BY THESE PRESENTS:

**AMENDMENT TO AGREEMENT
BETWEEN FORT BEND COUNTY AND
SETH W. SILVERMAN, M.D., P.A.**

THIS AMENDMENT to the Agreement for psychiatric forensic services to inmates of Fort Bend County's Jail is made and entered into by and between Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting by and through the Fort Bend County Commissioners Court, hereinafter referred to as "County," and Seth W. Silverman, M.D., P.A., hereinafter referred to as "Contractor," authorized to conduct business in the State of Texas.

RECITALS:

WHEREAS, County and Contractor previously entered an Agreement for psychiatric forensic services to inmates of Fort Bend County's Jail dated October 28, 2008 (hereinafter referred to as the "Agreement"), effective from October 1, 2008 through September 30, 2009. County and Contractor now desire to further amend said Agreement as set forth below.

AGREEMENT

For and in consideration of the premises and the mutual promises, obligations, and benefits contained herein, the County and Contractor hereby agree as follows:

1. This Amendment shall commence on October 1, 2009, and be effective for one (1) calendar month. As compensation for the services furnished hereunder, County will pay Contractor TEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$10,500.00) per calendar month. Contractor shall provide professional psychiatric forensic services for seventeen and one-half (17.5) hours per week, not to exceed seventy (70) hours per month.
2. This Agreement shall automatically renew on a monthly basis until either party provides written notice of intent to terminate this Agreement.
3. Except as modified herein, the Agreement remains in full force and effect and has not been modified or amended.
4. If there is a conflict between this Amendment the Agreement, the provisions of this Amendment shall prevail.
5. This Amendment is hereby attached to the Agreement dated October 28, 2008 and incorporated by reference as if set forth herein verbatim for all purposes.

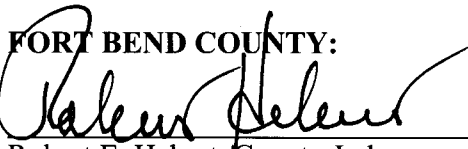
REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, County and Contractor have caused their respective duly authorized representatives to execute, seal and deliver this Amendment.

EXECUTION

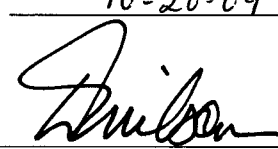
This Agreement shall not become effective until executed by all parties hereto.

FORT BEND COUNTY:


Robert E. Hebert, County Judge

Date: 10-20-09


Attest:


Dianne Wilson, County Clerk

AGREED:


Milton Wright, Sheriff

SETH W. SILVERMAN, M.D., P.A.


Seth W. Silverman, M.D., P.A.

Date: 10/15/09

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of **\$10,500** per month to pay the obligation of Fort Bend County under and within the foregoing Agreement.

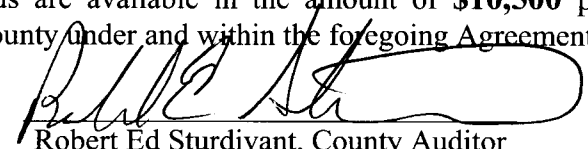

Robert Ed Sturdivant, County Auditor

Exhibit A: Original Agreement dated October 28, 2008

MER/nm: Date Amendment.Dr.Silberman.Sheriff.Psychiatric Forensic: 3357- (10132009)

STATE OF TEXAS

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COUNTY OF FORT BEND

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**AGREEMENT BETWEEN FORT BEND COUNTY
AND SETH W. SILVERMAN, M.D., P.A.**

This Agreement, entered into by and between Fort Bend County, Texas, a body corporate and politic acting herein by and through its Commissioners Court (hereinafter referred to as "County"), and Seth W. Silverman, M.D., P.A., a practitioner of psychiatric forensic services (hereinafter referred to as "Contractor.")

WITNESSETH:

WHEREAS, County is in need of a licensed psychiatrist to perform forensic services to inmates at the Fort Bend County Jail; and

WHEREAS, Contractor is able to provide professional psychiatric forensic services to the inmates at the Fort Bend County Jail; and

WHEREAS, County has determined that this Agreement is for personal or professional services and therefore exempt from competitive bidding under Chapter 262, TEXAS LOCAL GOVERNMENT CODE;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, the parties hereby agree as follows:

I.

TERM

- 1.01 This Agreement shall be for a one-year period, beginning October 1, 2008 and ending September 30, 2009.
- 1.02 This Agreement may be renewed annually, upon written agreement by both parties.
- 1.03 Any party may terminate this Agreement, without cause, at any time by providing thirty (30) days advanced written notice.
- 1.04 Revocation of Contractor's license by the Texas Medical Board or other medical licensing authority shall cause the immediate termination of this Agreement, without notice to Contractor.

II.

SERVICES PROVIDED

- 2.01 Contractor shall perform any and all psychiatric forensic services, hereinafter referred to as "Services," that may be necessary for inmates at the Fort Bend County Jail, hereinafter referred to as "Jail," including but not limited to prevention, diagnosis, and treatment of mental disorders, emotional disorders, psychotic disorders and adjustment disorders.
- 2.02 Contractor shall only provide Services while on-site at the Jail and shall not be on-call. Contractor shall provide Services on the following days:
 - A. The first, second, third and fourth Thursday of each month for a maximum of eight (8) hours each; and
 - B. The first Friday of each month for a maximum of eight (8) hours each.
 - C. Contractor may reschedule the days Services are provided so long as they are coordinated with the Jail staff, subject to the limitations of Section 3.02 below.

- 2.03 It is understood and agreed by the parties hereto that the Services to be furnished to County by Contractor under the provisions hereof are to be performed by Contractor in addition to other professional duties, and Contractor shall not be obligated under the provisions hereof to maintain any set, regular hours, nor to perform any set number of hours of service in fulfilling his obligations under the provisions of this Agreement, but that Contractor shall only be obligated to perform the Services necessary to fulfill his obligation as herein stated, when necessary and as necessary.

III.

BILLING AND PAYMENT

- 3.01 On or about the last day of each calendar month during the effective term of this Agreement, Contractor shall submit an invoice to County detailing Services provided for such calendar month, specifying the dates, number of hours on said dates (including travel time to/from Jail), and the name of the inmate for which Services hereunder were performed. County shall have the right, through its authorized representative or representatives, to examine and audit the records which support the monthly invoices submitted by Contractor.
- 3.02 As consideration for the Services to be provided by Contractor, County agrees to pay Contractor a fee equal to **ONE HUNDRED TWENTY-FIVE DOLLARS (\$125.00)** times the number of hours for which Services were performed during such month. However, in no event shall County be obligated to pay Contractor for more than forty (40) hours in any calendar month, nor will Contractor be obligated to provide Services to County hereunder more than forty (40) hours in any calendar month.
- 3.03 It is expressly understood and agreed by the parties hereto that in no event shall County be liable to Contractor under this Agreement in an amount in excess of **FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) per calendar month.**
- 3.04 For and in consideration of the Services rendered by Contractor, and subject to the limit of appropriation under Section VI, County shall pay to Contractor an annual amount not to exceed \$60,000.00, including reimbursable expenses, if any.
- 3.05 In performing Services hereunder, Contractor agrees to comply with all applicable federal, state, county and city laws, regulations, rules and ordinances.

IV.

PROFESSIONAL LIABILITY INSURANCE

- 4.01 Contractor shall, during the entire term of this Agreement, keep in force and effect a professional liability policy that shall cover all Services performed under this Agreement. The policy shall be for *One Million and No/100 Dollars (\$1,000,000.00)* for each occurrence, *Three Million and No/100 Dollars (\$3,000,000.00)* in aggregate. The policy shall name County and Contractor shall not cancel or change insurance without first giving the County ten (10) days prior written notice. The insurance shall be in a company acceptable to the Fort Bend County Risk Management Department. A copy of the policy or certificate of the insurance shall be delivered to the County on or before the date of this Agreement.
- 4.02 Contractor, in providing all Services hereunder agrees to abide by the provisions of any applicable federal or state data privacy act, including HIPAA and the Texas Medical Practices Act.

V.

INDEPENDENT CONTRACTOR / NO CO-PARTNERSHIP

- 5.01 It is agreed by the parties that at all times and for all purposes hereunder, Contractor is an independent contractor and not an employee of County. No statement contained in this Agreement

- shall be construed so as to find Contractor an employee of County, and Contractor shall be entitled to none of the rights, privileges, or benefits of County employees.
- 5.02 It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties, or as constituting Contractor (including his officers, employees, and agents) the agent, representative, or employee of County for any purpose, or in any manner, whatsoever. Contractor is to be and shall remain an independent contractor with respect to all Services performed under this Agreement.

SECTION VI

LIMIT OF APPROPRIATION

- 6.01 Prior to the execution of this Agreement, Contractor has been advised by County, and Contractor clearly understands and agrees, such understanding and Agreement being of the absolute essence to this Agreement, that County shall have available the total maximum sum of \$60,000.00 annually, including reimbursable expenses, if any, specifically allocated to fully discharge any and all liabilities which may be incurred by County under this Agreement.
- 6.02 Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to hereunder and the total maximum sum that County shall become liable to pay to Contractor hereunder shall not under any conditions, circumstances or interpretations thereof exceed the sum of \$60,000.00 annually during the effective term of this Agreement.

SECTION VII

SUCCESSORS AND ASSIGNS

- 7.01 County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement.
- 7.02 Neither County nor Contractor shall assign, sublet or transfer its or his interest in this Agreement without the prior written consent of the other.
- 7.03 Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public and/or governmental body that may be a party hereto.

SECTION VIII

PUBLIC CONTACT

- 8.01 Contact with any media outlet, citizens of Fort Bend County or governmental agencies shall be the sole responsibility of County.
- 8.02 Under no circumstances, whatsoever, shall Contractor release any material or information developed for or received from County in the performance of its Services hereunder without the express written permission of County, except where required to do so by law.

SECTION IX

COMPLIANCE AND STANDARDS

Contractor shall use its best efforts and perform all professional services agreed hereunder in a manner satisfactory and acceptable to County, in keeping with the best professional standard of care provided by psychiatrists and comply with all applicable state, federal, and local laws, ordinances, rules and regulations relating to the Services to be rendered hereunder.

SECTION X
SEVERABILITY

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this Agreement. However, upon the occurrence of such event, either party may terminate this Agreement forthwith upon the delivery of written notice of termination to the other party.

XI.
ENTIRE AGREEMENT; REQUIREMENT OF A WRITING

It is understood and agreed that the entire Agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties.

XII.
WAIVER OF BREACH OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be construed to be modification of the terms of this Agreement unless stated to be such in writing, signed by an authorized representative of County and Contractor.

XIII.
COMPLIANCE WITH LAWS AND REGULATIONS

- 13.01 In providing all Services pursuant to this Agreement, Contractor shall abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the provision of, such Services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement, and shall entitle County to terminate this Agreement immediately upon delivery of written notice of termination to Contractor.
- 13.02 In the event Contractor's license to practice becomes suspended or terminated, this Agreement shall entitle County to terminate this Agreement immediately without prior written notice. Contractor shall be notified by written notice within 24 hours of said event.

XIV.
NOTICES

- 14.01 Notices, correspondence, and all other communications shall be addressed to Fort Bend County Commissioners Court and submitted to the following representative:

To County:	Robert E. Hebert Fort Bend County Judge 301 Jackson, 7th Floor Richmond, Texas 77469	Copy to:	Milton Wright Fort Bend County Sheriff 1410 Ransom Road Richmond, Texas 77469
To Contractor:	Seth W. Silverman, M.D., P.A. 5300 Memorial, Suite 510 Houston, Texas 77007		

- 14.02 This instrument contains the entire Agreement between the parties hereto relating to the rights

herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect excepting a subsequent modification in writing signed by all the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below. The effective date of this Agreement is the date of the last signature hereto.

FORT BEND COUNTY

By: 

Robert E. Hebert, County Judge

Date: 10-28-08

ATTEST: 

Dianne Wilson, County Clerk

CONTRACTOR:
SETH W. SILVERMAN, M.D., P.A.

By: 

Seth W. Silverman, M.D., P.A.

Date: 10/7/08

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$60,000.00 to pay the obligation of Fort Bend County under and within the foregoing Agreement.


Robert Ed Sturdivant, Auditor

GDD/nh:Dr.Silverman.Sheriff: 3357-(09/19/08)