

RESOLUTION NO. 2018- 115

A RESOLUTION BY THE BOARD OF COUNTY  
COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA,  
APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND  
REQUIREMENTS OF AN AGREEMENT BETWEEN ST. JOHNS  
COUNTY, FLORIDA, AND TONIER CAIN AND AUTHORIZING  
THE COUNTY ADMINISTRATOR TO EXECUTE THE  
AGREEMENT ON BEHALF OF THE COUNTY

WHEREAS, St. Johns County is providing funding to Tonier Cain to perform Trauma Informed Systems Training to SJC Community Based Care (CBC) staff; and,

WHEREAS, the County has reviewed the terms, provisions, conditions, and requirements of the Agreement; and

WHEREAS, the County has determined that accepting the terms of the Agreement, and entering into said Agreement will serve the interests of the County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

Section 2. The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of the Agreement between the St. Johns County, Florida, and Tonier Cain and authorizes the County Administrator, or designee, to execute the Agreement on behalf of the County.

Section 3. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor, or context of this Resolution, then this Resolution may be revised, without subsequent approval of the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 17<sup>th</sup> day of April, 2018.

BOARD OF COUNTY COMMISSIONERS OF  
ST. JOHNS COUNTY, FLORIDA

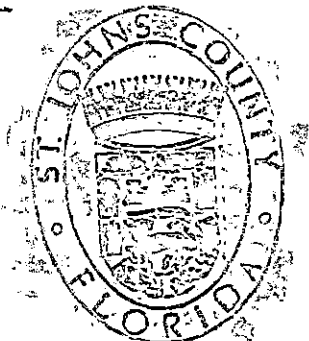
Attest: Hunter S. Conrad, Clerk

Pam Halterman  
Deputy Clerk

By:

Henry Dean  
Henry Dean, Chair

RENDITION DATE 4/19/18



## AGREEMENT

**THIS AGREEMENT** is made as of the \_\_\_\_ day of \_\_\_\_\_, 2018, between **Tonier Cain** (the Provider) and **St. Johns County, Florida**, a political subdivision of the State of Florida (the County). In consideration of the mutual promises and set forth in this Agreement, the Provider and the County agree as follows:

**1. TERM.** The term of this Agreement shall commence upon execution of this Agreement by both parties and shall terminate upon provision of the Services by the Provider. This Agreement shall not be renewed.

**2. SCOPE OF SERVICES.** The Provider shall provide Trauma Informed Systems Training (the Services) under the general direction of the County's Health and Human Services Department. The Services shall be provided between June 27 and June 29, 2018 as follows:

- a. June 27: Shadow Day
- b. June 28: R.I.C.H Approach
- c. June 29: Peer to Peer/Peer Empowerment Training and Debriefing

The County shall designate a location for the performance of the Services.

No audio or visual recording of the Services may be made without the prior written consent of the Provider.

### **3. COMPENSATION.**

a. Compensation for the Services shall not exceed **fourteen thousand dollars (\$14,000.00)**. It is strictly understood that the Provider is not entitled to the above-referenced compensation. Rather, the Provider's compensation is based upon the Provider's adherence to the Scope of Services set forth above. Compensation is dependent upon satisfactory completion and delivery of all work product and deliverables set forth in this Agreement.

b. Upon execution of this Agreement by both parties, the County shall submit a deposit of 50% of the Provider's fee. The remaining balance shall be paid to the Provider at the conclusion of the final day of training.

c. Unless otherwise notified in writing, all invoices shall be delivered to:

St. Johns County Health and Human Services Department  
Attn: Raechel Meeks  
200 San Sebastian View, Suite 2300  
St. Augustine, FL 32084

### **4. POSTPONEMENT OR CANCELLATION OF SERVICES**

The Services may only be postponed or cancelled upon written notification to the other party. If the Services are postponed by the Provider, the Provider shall work with the County to

reschedule the Services as soon as is reasonably practicable. If the Services are cancelled by the Provider, the Provider shall return the deposit, and no further compensation shall be paid under this Agreement. If the Services are postponed or cancelled by the County, the following shall apply:

- a. Postponement or cancellation less than 30 days prior to the dates of service: 100% of the fee shall be charged;
- b. Postponement or cancellation between 30 and 60 prior to the dates of service: 50% of the fee shall be charged; and
- c. Postponement or cancellation more than 60 days prior to the dates of service: No fee shall be charged and the deposit shall be returned.

#### **5. NOTICE OF DEFAULT/RIGHT TO CURE**

a. Should the Provider fail to perform (default) under the terms of this Agreement, then the County shall provide written notice to the Provider, which such notice shall include a timeframe of no fewer than seven (7) calendar days in which to cure the default. Failure to cure the default within the timeframe provided in the notice of default (or any such amount of time as mutually agreed to by the parties in writing), shall constitute cause for termination of this Agreement.

b. It is expressly noted that, should the County issue more than one notice of default to the Provider within any six (6) consecutive months during the term of this Agreement, such action shall constitute cause for termination of this Agreement.

c. Consistent with other provisions in this Agreement, Provider shall be paid for services authorized and satisfactorily performed under this Agreement up to the effective date of termination.

d. Upon receipt of a notice of termination, except as otherwise directed by the County in writing, the Provider shall:

- i. Stop work on the date to the extent specified;
- ii. Terminate and settle all orders and subcontracts relating to the performance of the terminated work;
- iii. Transfer all work in process, completed work, and other material related to the terminated work to the County; and
- iv. Continue and complete all parts of the work that have not been terminated.

#### **6. PERSONNEL**

a. The Provider represents that it has, or shall secure at its own expense, all necessary personnel required to perform the Services as noted. It is expressly understood that such personnel shall not be employees of, or have any contractual relationship with the County.

b. All of the Services required hereunder shall be performed by the Provider. All personnel engaged in performing the Services shall be fully qualified and, if required, authorized or permitted under federal, state and local law to perform such Services.

c. Any changes or substitutions in the Provider's key personnel must be made known to the County's representative and written approval granted by the County before said change or substitution can become effective. For the purpose of this section, **Tonier Cain** is named as a key person.

d. The Provider warrants that all Services shall be performed by skilled and competent personnel to the highest professional standards in the field.

## 7. FEDERAL AND STATE TAX

a. In accordance with local, state, and federal law, the County is exempt from the payment of sales and use taxes. The County shall execute a tax exemption certificate submitted by the Provider. The Provider shall not be exempt from the payment of all applicable taxes in its performance under this Agreement. It is expressly understood by the County and by the Provider that the Provider shall not be authorized to use the County's Tax Exemption status in any manner.

b. The Provider shall be solely responsible for the payment and accounting of any and all applicable taxes and/or withholdings including but not limited to Social Security payroll taxes (FICA), associated with or stemming from Provider's performance under this Agreement.

## 8. INSURANCE

a. The Provider shall not commence work under this Agreement until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Provider shall furnish proof of insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Provider has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. **Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate.** Compliance with the foregoing requirements shall not relieve the Provider of its liability and obligations under this Agreement.

Certificate Holder Address: St. Johns County, a political subdivision of the State of Florida  
500 San Sebastian View  
St. Augustine, FL 32084

b. The Provider shall maintain during the life of this Agreement, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the Provider from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by the Provider or by anyone directly employed by or contracting with the Provider.

c. The Provider shall maintain during the life of this Agreement, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect the Provider from claims for damages for bodily injury, including the ownership, use; or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Provider or by anyone directly or indirectly employed by a Provider.

d. The Provider shall maintain during the life of this Agreement, adequate Workers' Compensation Insurance in at least such amounts as is required by the law for all of its employees.

e. The Provider shall maintain during the life of this Agreement, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

f. In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

## 9. INDEMNIFICATION.

The Provider shall indemnify, defend, and hold the County harmless from all claims, losses, and reasonable costs (including attorneys' fees and all costs associated with litigation, whether or not such costs are taxable as attorneys' fees) associated with this Agreement.

## 10. CONFLICT OF INTEREST

a. The Provider represents that it presently has no interest and shall acquire no interest, either directly or indirectly, which would conflict in any manner with the performance of services required hereunder. The Provider further represents that no person having any interest shall be employed for said performance.

b. The Provider shall promptly notify the County in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance, which may influence or appear to influence the Provider's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Provider may undertake and request an opinion of the County, whether such association, interest, or circumstance constitutes a conflict of interest if entered into by the Provider.

c. The County agrees to notify the Provider of its opinion by certified mail within 30 days of receipt of notification by the Provider. If, in the opinion of the County, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Service Provider, the County shall so state in the notification and the Provider shall, at his/her option enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the County by the Provider under the terms of this Agreement.

## 11. PUBLIC RECORDS

a. The cost of reproduction, access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State and Federal provisions. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

b. In accordance with Florida law, to the extent that Provider's performance under this Agreement constitutes an act on behalf of the County, Provider shall comply with all requirements of Florida's public records law. Specifically, if Provider is expressly authorized, and acts on behalf of the County under this Agreement, Provider shall:

- i. Keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the Services;
- ii. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost as provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- iii. Ensure that public records related to this Agreement that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by applicable law for the duration of this Agreement and following completion of this Agreement if the Provider does not transfer the records to the County; and
- iv. Upon completion of this Agreement, transfer, at no cost, to the County all public records in possession of the Provider or keep and maintain public records required by the County to perform the Services.

c. If the Provider transfers all public records to the County upon completion of this Agreement, the Provider shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Provider keeps and maintains public records upon completion of this Agreement, the Provider shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the County's information technology systems.

d. Failure by the Provider to comply with the requirements of this section shall be grounds for immediate, unilateral termination of this Agreement by the County.

**IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT,**

**CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: OCA, ATTN: Public Records Manager, 500 San Sebastian View, St. Augustine, FL 32084, PH: (904) 209-0805, EMAIL: [publicrecords@sjcfl.us](mailto:publicrecords@sjcfl.us).**

**12. MISCELLANEOUS.**

a. ***Governing Law and Venue.*** This Agreement is to be governed by and interpreted in accordance with the laws of the State of Florida. Venue for any action pertaining to this Agreement shall be in St. Johns County.

b. ***Entire Agreement.*** This Agreement constitutes the entire agreement among the parties and supersedes any prior understanding or agreement among them respecting the subject matter hereof. There are no representations, arrangements, understandings or agreements, oral or written, among the parties hereto relating to the subject matter of this Agreement except those fully expressed herein and each party agrees that it has not relied on and is not entitled to rely on any statements, promises or representations other than those set forth herein in entering into this Agreement. This Agreement may not be modified or amended except by the mutual written agreement of the parties.

c. ***Force Majeure.*** Notwithstanding the provisions of Section 4 above, neither party shall be held to be in non-compliance with this Agreement, or suffer any enforcement or penalty relating to this Agreement, where such non-compliance occurs as the result of a force majeure event. For the purposes of this section, a force majeure event is defined as an event beyond the control and without the fault or negligence of the affected party which could not have been prevented through the exercise of reasonable diligence, including natural disaster (including hurricane, flood, or other acts of nature), strike, riot, war, terrorism or threat of terrorism, or other event that is reasonably beyond either party's ability to anticipate or control. When there is an event of force majeure, the affected party shall immediately notify the other party in writing giving the full particulars of the event of force majeure. The affected party must use reasonable efforts to mitigate the effect of the event of force majeure upon its performance under this agreement. Upon completion of the event of force majeure, the affected party shall resume its performance under this Agreement as soon as reasonably practicable. If, due to an event of force majeure, the Provider is unable to complete the Services within the dates provided in this Agreement, the Services shall be rescheduled at the parties' earliest convenience.

d. ***Assignment.*** Neither party shall assign the duties and responsibilities outlined in this Agreement without the written consent of the other.

e. ***Waiver.*** Any waiver by any party of a breach of any provision of this Agreement shall not operate as or be construed to be a waiver of any other breach of such provision of this Agreement. Any waiver must be in writing and signed by the party against whom the waiver is sought.

f. ***Remedies.*** No remedy specified herein shall be deemed to be such party's exclusive remedy. Accordingly, in addition to all of the rights and remedies provided for in this Agreement, the parties shall have all other rights and remedies provided to them by applicable law, rule or regulation. No single or partial exercise of any right, power, or remedy shall preclude any other or further exercise thereof.

g. **Enforcement Costs.** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all reasonable expenses even if not taxable as court costs (including, without limitation, all such reasonable fees, costs and expenses incident to appeals), incurred in that action or proceedings, in addition to any other relief to which such party or parties may be entitled.

h. **Arrears.** The Provider shall not pledge the County's credit, or make it a guarantor of payment, or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The Provider further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

f. **Severability.** If any word, phrase, sentence, part, subsection, section, or other portion of this Agreement, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Agreement, and all applications thereof, not having been declared void, unconstitutional, or invalid shall remain in full force, and effect, provided that the removal of the voided portion shall not deprive either party of the benefit of its bargain.

g. **Notices.** All notices pertaining to this Agreement shall be delivered either by hand or by certified mail, return receipt requested, to:

**PROVIDER:** Tonier Cain  
P.O. Box 175  
Arnold, MD 21012

**COUNTY:** St. Johns County Health and Human Services Department  
Attn: Shawna Novak, Health and Human Services Director  
200 San Sebastian View, Suite 2300  
St. Augustine, FL 32084

h. **Relationship of the Parties.** The parties agree that this Agreement does not and shall not be construed as or constitute an agency, partnership, joint venture, or other fiduciary or confidential relationship between the Provider and the County. The Provider is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent, or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times and in all places be subject to the Provider's sole direction, supervision, and control.

The Provider shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Provider's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees or agents of the County. The Provider does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this agreement.

i. **Contingent Fees.** The Provider warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Provider to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

j. **Counterparts.** This Agreement may be executed in any number of counterparts, including facsimile, and each counterpart shall be deemed an original.

k. **Exhibits.** The parties agree that all Exhibits to this Agreement are hereby incorporated into and shall form an integral part of this Agreement.

l. **No Third-Party Beneficiaries.** Both the County and the Provider explicitly agree that nothing in this Agreement shall be construed to create any third party beneficiary status to any person or entity.

m. **Access to Records.** The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State or Federal law. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

n. **Access and Audits.** As a condition of entering into the Agreement, and to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Provider authorizes the County to examine, review, inspect, and/or audit the books and records, in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in the Contract Documents. It is specifically noted that Provider is under no duty to provide access to documentation not related to the Contract, and/or otherwise protected by County, State, or Federal law.

The Provider shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the work for at least three (3) years after completion of this Agreement. The County shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the County's cost, upon five (5) days written notice.

o. **Nondiscrimination.** The Provider warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, physical handicap, sex, age or national origin.

p. **Authority to Practice.** The Provider hereby represents and warrants that it has and shall continue to maintain all licenses and approvals required to conduct its business, and that it shall at all times conduct its business activities in a reputable manner.

q. **Headings.** The heading preceding the sections and subsections herein are solely for convenience of reference and shall not constitute a part of this Agreement, or affect its meaning, construction or effect.

r. **Authority to Execute.** Each party to this Agreement covenants to the other party that it has the lawful authority to enter into this Agreement and that it has authorized the execution of this Agreement by the representative noted below.

**IN WITNESS WHEREOF**, each of the parties hereto has executed this Agreement as of the date and year first above written.

**ST. JOHNS COUNTY, FLORIDA,**  
a political subdivision of the State of Florida

**TONIER CAIN**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST: Hunter S. Conrad, Clerk

By: \_\_\_\_\_  
Deputy Clerk