

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

**CONTRACT BETWEEN
TEXAS JUVENILE JUSTICE DEPARTMENT
AND
360 CORRECTIONAL CONSULTING, LLC
FOR
PREA AUDITOR SERVICES**

This contract is by and between the **Texas Juvenile Justice Department**, hereinafter “**TJJD**”, and **360 Correctional Consulting, LLC**, hereinafter “**Contractor**” to perform PREA audits at select juvenile correctional facilities in the State of Texas. This Contract is identified as Contract Number **CON0000454**.

This Agreement is composed of the following documents:

1. This Contract, including all attachments;
2. Mutually agreed to and negotiated changes;
3. Service Provider’s Statement of Work found in their proposal;
4. Service Provider’s proposal dated June 26, 2015; and
5. RFP #644-15-060315, *Prison Rape Elimination Act (PREA) Audit Services Request for Proposals*, issued June 10, 2015.

In the event there is conflict between the Agreement documents, the order of precedence shall be the order listed above.

This contract shall begin on September 1, 2015 and remain in effect through August 31, 2016 (the “expiration date”). The Contract may be extended for four (4) additional one (1) year renewal option periods, provided that both parties agree in writing (via contract amendment) to do so prior to the expiration date. Any renewals shall be at the same terms and conditions, plus any approved changes to be mutually agreed upon. The rates and services may be renegotiated based on performance and required service delivery.

**SECTION I
SCOPE OF WORK**

Relationships. The actual audit relationship is between Contractor and the county/facility. TJJD shall not receive a copy of the audit report, but shall only verify receipt by the county. The contents of the audit report are confidential between Contractor and the county/facility, and Contractor shall not provide TJJD with either the interim audit report or the final audit report. TJJD shall have no concern nor input into the contents of the interim audit report nor the final audit report. TJJD shall not be involved in any corrective action period that may be necessary. The county/facility shall make the final audit report available to the public and TJJD shall receive a copy.

Detailed Audit Requirements. Contractor shall perform audits in compliance with PREA standard 28 C.F.R. 115.403 and shall follow the PREA audit Process Map (Exhibit A). Contractor shall be responsible for the pre-audit phase, the on-site audit phase, and the post-audit corrective action/final report phase. Contractor shall perform the audit as required by the Department of Justice and is responsible for knowledge of all written guidance from DOJ regarding the conducting of audits.

The Contractor may be assigned one or more counties to audit. Selection of the counties Contractor will audit will be at TJJD’s discretion. If Contractor is unable to audit an assigned county, Contractor shall notify TJJD immediately and another contractor will be assigned to that county.

**SECTION II
COMPENSATION**

TJJD shall pay the Contractor, in accordance with the rates contained in their proposal, for 50% of the total fee upon submission of the interim audit report to the county facility being audited. TJJD shall verify receipt of the

report with the county. The remaining 50% of the payment shall be paid upon receipt by the county of the final audit report after any corrective action period.

TJJD shall pay the Contractor for services received, upon receipt and approval of a proper invoice, within thirty (30) days from receipt of same, provided that favorable inspection of work performed is documented and authorization to pay is granted.

Travel expenses required to conduct the on-site portion of the audit are to be paid separate from the audit cost and shall be paid upon completion of the on-site audit and submission of an invoice by the auditor. Travel expenses must be approved prior to any expenses being incurred. Unapproved travel expenses may not be paid. Travel expenses shall follow State of Texas allowability guidelines.

Travel, lodging, and meal expenses shall be reimbursed in accordance with "Textravel" <https://fmx.cpa.state.tx.us/fmx/travel/textravel/index.php> which is based on Texas Government Code, Chapter 660; General Appropriations Act, Article IX, Part 5; and Texas Administrative Code, Title 34, Part I, Chapter 5, Subchapter C, Section 5.22. Receipts shall be required for airfare, hotel, rental car, gas reimbursement, and parking. Contractor shall obtain the lowest cost airfare (excluding state contract airfare). Actual meal expenses are reimbursed up to the daily maximum meal reimbursement for the location where services are rendered, no receipts are required. The maximum meal reimbursement should not be claimed unless the actual expenditures equal or exceed the maximum allowable rate.

Terms of payment shall be in accordance with Chapter 2251, Texas Government Code and Texas Government Code 403.0551 that payment owing to the Contractor under this contract will be applied toward elimination of the Contractor's indebtedness to the state, delinquency in payment of taxes to the state, or delinquency in payment of taxes that the Comptroller administers or collects until the indebtedness or delinquency is paid in full.

SECTION III CERTIFICATIONS

Article 1: Equal Opportunity

Contractor certifies compliance with all terms, provisions, and requirements of Titles VI and VII, Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and any other Federal, state, local or other anti-discriminatory act, law, statute or regulation, along with all amendments and revisions of the acts, laws, statutes or regulations, in the performance of this contract, and will not discriminate against any child or youth, client, employee, or applicant for employment because of race, creed or religion, age, sex, color, national or ethnic origin, handicap, or any other illegal discriminatory basis or criteria.

Article 2: Unfair Business Practices

Contractor certifies that it or its officers have not been found guilty in a judicial or state administrative agency proceeding of unfair business practices as set out in the Texas Business and Commerce Code and that no officer of Contractor has served as an officer of another company which has been found guilty in a judicial or state administrative agency proceeding of unfair business practices. If the above certifications are false, this contract is void.

Article 3: Franchise Taxes

Section 1: Contractor certifies that should Contractor be subject to payment of Texas franchise taxes, all franchise taxes are current. If such certification is false this contract may be terminated at the option of TJJD or other administrative error sanctions may be taken.

Section 2: If Contractor is exempt from payment of Texas franchise taxes, Contractor shall so indicate by attachment to this contract.

Section 3: If Contractor's payment of Texas franchise taxes becomes delinquent during the term of this contract, Contractor will notify TJJD within 24 hours. If such delinquency cannot be cured within 24 hours and a copy of the Certification of Account Status proving payment of delinquent taxes cannot be provided to TJJD, this contract may be terminated at the option of TJJD or other administrative error sanctions may be taken under the provisions of the contract.

Article 4: Asbestos Regulation Compliance

If applicable, Contractor certifies compliance with the Asbestos Hazard Emergency Response Act of 1986 (AHERA) by having on file with the Texas Department of State Health Services (DSHS) a copy of Contractor's AHERA Management Plan for each facility Contractor owns, leases, or otherwise uses as a school or is part of a school, grades kindergarten through 12, inclusive where applicable. Prior to the initiation of services under this contract, Contractor shall provide to TJJJ a certification of an asbestos-free environment or a copy of the DSHS acceptance and approval for the Contractor's AHERA Asbestos Management Plan(s). Contractor shall comply with the approved Management Plan during the term of this contract and any renewals; failure to do so shall be grounds for termination of the contract. Should DSHS approve a revised or modified Management Plan, a copy of the DSHS acceptance and approval of the revised or modified Management Plan shall be furnished to TJJJ.

Article 5: Human Immunodeficiency Virus Services Act Compliance

Section 1: Contractor certifies compliance with the HIV Services Act, Texas Health and Safety Code Chapter 85, requirements for maintenance of confidentiality regarding HIV and its related conditions, including Acquired Immunodeficiency Syndrome (AIDS).

Section 2: Contractor further certifies that it has developed and implemented workplace guidelines in accordance with the HIV Services Act. Contractor may elect to use workplace guidelines developed and implemented by TJJJ. Should Contractor not elect to use workplace guidelines developed and implemented by TJJJ, Contractor agrees its workplace guidelines shall be similar to TJJJ's as required by §85.113, Texas Health & Safety Code.

Section 3: In the absence of confidentiality guidelines, Contractor is not eligible to receive state funds, and Contractor agrees to refund to the state any state funds Contractor receives while ineligible.

Article 6: Communicable Disease Prevention & Control Act Compliance

Contractor certifies compliance with the applicable provisions of the Communicable Disease Prevention and Control Act, Texas Health & Safety Code Chapter 81.

Article 7: Federal Confidentiality Compliance

Any program that specializes, in whole or in part, in providing treatment, counseling, and/or assessment and referral services for youth with alcohol or other drug problems must comply with the Federal confidentiality regulations. Said regulations apply only to programs that are federally assisted either directly or indirectly. Contractor certifies compliance with these Federal requirements for confidentiality [42 USC Section 290dd-2; 42 CFR Part 2] and agrees to comply with said requirements for so long as this contract is in force.

Article 8: Restriction on Possession of Weapons

Contractor agrees that Contractor or any associates providing services on behalf of Contractor shall not carry or possess any type of firearm or other weapon listed in Texas Penal Code Section 46.01 while rendering services to TJJJ youth under this contract. This prohibition includes the carrying of a handgun licensed under the authority of Chapter 411, Subchapter H, Texas Government Code.

Article 9: Required Disclosure of Lobbyist Activity

Contractor agrees that if any person who is an employee of, director of, sub-consultant, or subcontractor for Contractor is required to register as a lobbyist under Chapter 305, Texas Government Code at any time during the term of this contract, Contractor shall notify TJJJ's Director of Business Operations and Contracts, and provide timely copies of all reports filed with the Texas Ethics Commission as required by Chapter 305, Texas Government Code.

Article 10: Notification to TJJJ of Sub-consultants & Subcontractors

Section 1: Contractor shall notify TJJJ of the selection and/or use of all subcontractors, or sub-consultants regularly used by Contractor in performing or assessing the performance of Contractor's duties under this contract if paid or anticipated to be paid an amount exceeding \$5,000.00 during the term of this contract. All subcontractors and sub-consultants are subject to the approval of TJJJ, which will not be unreasonably withheld.

Section 2: No contractual relationship will exist between Contractor's sub-consultants or subcontractors and TJJJ. TJJJ shall have no responsibility whatsoever for the conduct, actions, or commissions (active or passive) of any sub-consultants or subcontractors in the performance of their duties under this contract.

Section 3: Contractor shall be solely responsible for the management of any sub-consultants or subcontractors in the performance of their duties under this contract.

Article 11: Compliance with Child Support, §231.006, Family Code

Under Section 231.006, Family Code, the vendor or applicant (Contractor) certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

CONTRACTOR MUST PROVIDE, IN THE SPACE BELOW, THE NAME AND SOCIAL SECURITY NUMBER OF AN INDIVIDUAL OWNER, A SOLE PROPRIETOR AND ALL PARTNERS, SHAREHOLDERS, OR OWNERS WITH AN OWNERSHIP INTEREST OF AT LEAST TWENTY-FIVE (25) PERCENT OF THE BUSINESS ENTITY ENTERING INTO THIS CONTRACT.

For business entities with no identifiable owner of twenty-five percent (25%) or more of the entity, indicate "none" on the first line below.

Name, Social Security Number, Percent (%)

Article 12: Compliance with §572.054, Texas Government Code, Former Officer or Employee of TYC/TJJD

Contractor certifies compliance with section 572.054, Texas Government Code. Contractor has not employed a former officer or employee of TYC or TJJD to perform services on Contractor's behalf, to secure this contract or to represent Contractor in any manner prohibited by section 572.054. A false certification could result in termination of this contract.

Article 13: Compliance with §2252.901, Texas Government Code, Former or Retired Employee of the Agency

Contractor certifies compliance with §2252.901, Texas Government Code, which provides "A state agency may not enter into an employment contract, a professional services contract under chapter 2254, or a consulting services contract under Chapter 2254 with a former or retired employee of the agency before the first anniversary of the last date on which the individual was employed by the agency, if appropriated money will be used to make payments under the contract. This section does not prohibit an agency from entering into a professional services contract with a corporation, firm, or other business entity that employs a former or retired employee of the agency within one year of the employee's leaving the agency, provided the former or retired employee does not perform services on projects for the corporation, firm or other business entity that the employee worked on while employed by the agency." Contractor certifies that he/she is not prohibited from entering into this contract because of any prior employment with TYC or TJJD.

Article 14: Specially Designated Nationals and Blocked Persons List

Contractor certifies that it is not on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control.

Contractor certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement and that Contractor is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>

Article 15: Terrorism

TJJD is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing service providers/vendors with the Federal System for Award Management <https://www.sam.gov> which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.

Article 16: Fingerprint and Background Check

Contractor will provide proof of successful criminal background and finger print checks on all persons providing services under this Agreement. Criminal background checks shall be conducted at Contractor's expense for each of the Contractor's employees. Any Contractor employee who is unwilling to provide or who does not provide required information will not be allowed to work under this agreement. Any Contractor employee shall not work under this agreement until the criminal background/finger print check proof is received and verified by TJJD. TJJD will not pay for the finger print and background checks.

Article 17: Convictions for Hurricane Katrina or Rita

Under Section 2155.006, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

Under Section 2155.006(b) of the Texas Government Code, a state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified contract and acknowledges that any contract resulting from this IFB may be terminated and payment withheld if this certification is inaccurate.

Article 18: Antitrust

Contractor represents and warrants that neither Contractor nor any firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such firm, corporation, partnership, or institution has, (1) violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or federal antitrust laws; or (2) communicated directly or indirectly the contents of the Proposal to any competitor or any other person engaged in such line of business during the procurement process for this Contract.

Article 19: Intellectual Property Indemnification

To the extent of the Texas Constitution Contractor will indemnify, defend and hold harmless the State of Texas and Texas Juvenile Justice Department against any action or claim brought against the State of Texas and/or Texas Juvenile Justice Department that is based on a claim that software infringes any patent rights, copyright rights or incorporated misappropriated trade secrets. Contractor will pay any damages attributable to such claim that are awarded against the State of Texas and/or Texas Juvenile Justice Department in a judgment or settlement.

If Texas Juvenile Justice Department's use of the software becomes subject to a claim, or is likely to become subject to a claim, in the sole opinion of Texas Juvenile Justice Department Contractor shall, at its sole expense (1) procure for Texas Juvenile Justice Department the right to continue using such software under the terms of this Contract; or (2) replace or modify the software so that it is non-infringing.

Article 20: Contracting with Executive Head of State Agency

Under Government Code §669.003, relating to contracting with an executive of a state agency, Contractor represents that no person who, in the past four years, served as an executive of the Texas Comptroller of Public Accounts, Texas Youth Commission, Texas Juvenile Justice Department or any other state agency, was involved with or has any interest in this contract. If Contractor employs or has used the services of a former executive head of Texas Youth Commission, Texas Juvenile Justice Department or other state agency, then Contractor shall provide the following information: Name of former executive, name of state agency, date of separation from state agency, position with Contractor, and date of employment with Contractor.

Article 21: Abandonment or Default

If Contractor defaults on the contract, Texas Juvenile Justice Department reserves the right to cancel the contract without notice and either re-solicit or re-award the contract to the next best responsive and responsible service provider. The defaulting Contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by the agency based on the seriousness of the default.

In accordance with §2261.101, Government Code Remedies and Sanctions – agencies shall incorporate language which shall hold Contractor accountable for breach of contract or substandard performance without unfairly limiting competition.

Article 22: Certain Bids and Contracts Prohibited

Under Texas Government Code Section 2155.004, TJJD may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from TJJD to participate in preparing the specifications or request for proposals on which the bid or contract is based. Under Section 2155.004, Government Code, the vendor (Contractor) certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

Article 23: Gifts and Gratuity

By executing this agreement, the undersigned signatory certifies that he/she has not given, offered to give, nor intends to give at anytime hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response. Failure to sign the agreement or signing it with a false statement shall void the agreement.

Article 24: Debarment

Contractor certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement and that Contractor is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.

Article 25: By signature hereon, the provider certifies that:

All statements and information prepared and submitted in the response to this contract are current, complete and accurate.

**SECTION IV
GENERAL PROVISIONS**

Article 1: Relationship of Parties

Contractor is acting as an independent contractor and is wholly responsible for the day-to-day operations of its programs and employees; no joint venture, partnership, or agency exists nor shall be implied by the terms of this contract. No employee of Contractor shall become an employee of TJJD by virtue of this contract.

Article 2: Indemnity

Contractor agrees to be liable for, and hereby does indemnify and hold harmless TJJD and its officers, directors, agents, employees and representatives from and against any and all liability for any and all claims, suits, demands, causes of action, and/or damages, (including costs of court and reasonable attorneys' fees) arising from or based upon misconduct, intentional or negligent acts, or intentional or negligent omissions on the part of Contractor, its officers, directors, agents, representatives, employees, or visitors which may arise out of or could result from this contract or its performance.

Article 3: Confidentiality and Security

- Section 1:** Contractor agrees that all its employees will comply with state and federal law and with TJJD policies regarding the confidentiality of TJJD employee information, student records, and identifying information.
- Section 2:** Contractor agrees that all information regarding TJJD and/or its youth that is gathered, produced, or otherwise derived from this contract shall remain confidential subject to release only by permission of TJJD.
- Section 3:** Contractor's employees who visit any TJJD facility will comply with that facility's security regulations.
- Section 4:** Identifying pictures, appearances, films, or reports of TJJD youth may not be disclosed by Contractor without the written consent of the youth and, if under age 18, of his or her parents, guardian, or managing conservator.

Article 4: Administrative Error Sanctions

- Section 1:** TJJD, based on information from monitoring or other verifiable sources, may terminate this contract for the reasons set forth in the article dealing with termination below, or take other actions including, but not limited to:
- a. Require Contractor to take specific corrective actions in order to remain in compliance with the terms of this contract; and/or
 - b. Recoup payment made to Contractor; and/or
 - c. Impose recommendations from audit or investigative findings, and minor or major sanctions; and/or
 - d. Assess liquidated damages for each instance of non-compliance with the terms of this contract; and/or
 - e. Suspend, place into abeyance, or remove any contractual rights including, but not limited to, withholding payment.
- Section 2:** Contractor shall cooperate fully with TJJD and its authorized representative in carrying out corrective action plans.

Article 5: Termination

- Section 1:** Contractor may terminate, for convenience, its obligations under this contract by giving TJJD thirty (30) calendar days written notice.
- Section 2:** TJJD may terminate, for convenience, its obligations under this contract by giving Contractor thirty (30) calendar days written notice, or immediately in the event of breach of contract by Contractor.
- Section 3:** TJJD shall terminate this contract in the event that TJJD is not granted funding to pay for the herein described services or in the event that funding is lost due to either a reduction in the budget or a reallocation of budgeted funds.
- Section 4:** Cause/Default: If the Service Provider fails to provide the goods or services contracted for according to the provisions of the Contract, or fails to comply with any terms or conditions of the Contract. TJJD may, upon written notice of default to the Service Provider, immediately terminate all or any part of the Contract. Termination is not an exclusive remedy, but exists in addition to any other rights and remedies provided in equity, by law, or under the Contract. TJJD may exercise any other right, remedy, or privilege available to it under applicable law or may proceed by appropriate court action to enforce the provisions of the Contract. The exercise of any of the foregoing remedies will not constitute a termination of the Contract unless TJJD notifies the Service Provider in writing prior to the exercise of such remedy. Service Provider shall be liable for all costs and expenses, including court costs, incurred by TJJD with respect to the enforcement of any of the remedies listed herein.

Article 6: Funding Out Clause

This contract is contingent upon the continued availability of funding. If funds become unavailable through lack of appropriations, legislative budget cuts, amendment of the Appropriations Act, state agency consolidations, or any other disruption of current appropriations, provisions of this Termination Article shall apply. This contract is subject to termination, without penalty, either in whole or in part, if funds are not appropriated by the Texas Legislature.

Article 7: Waiver

No waiver by either party of any breach or default of the other under this contract shall operate as a waiver of any future or other breach or default, whether of a like or different character or nature.

Article 8: Severability

The provisions of this contract are severable. If any part of this contract is contrary to any federal, state, or local law, it is not applicable and such invalidity shall not affect the other provisions or applications of this agreement which can be given effect without the invalid provision or application.

Article 9: Contract Amendment and Merger Clause

This contract encompasses the complete and entire agreement of the parties. Neither party has made or relied on any representations, stipulations, or agreements other than those expressly contained in this contract. No other contracts, oral or written, shall constitute a part of this contract unless such is made in writing, executed by the parties hereto or their successors, and expressly made a part of this contract. This Contract may only be amended or supplemented in a writing, executed by the parties hereto or their successors, and expressly made a part of this contract, except that TJJD reserves the right to make unilateral minor administrative changes to correct typographical errors, change the TJJD contract identification number, or increase the "not to exceed" amount if necessary for continuation of services.

Article 10: Notice of Changes

Section 1: Contractor shall notify TJJD immediately in writing in advance of any significant change affecting the Contractor, including but not limited to change of Contractor's name or identity, location of services, ownership or control, operating entity, governing board membership, key personnel, payee identification number, and other significant changes that may affect the delivery of services under the terms of this contract.

Section 2: Contractor shall not transfer or assign this contract or enter into any subcontract for the services under this contract without prior written approval from TJJD.

Section 3: Contractor shall not relocate the services provided under this contract from the location stated in the preamble without prior written approval from TJJD.

Article 11: Notice

Required notices will be provided to the Director of Business Operations and Contracts at the TJJD Central Office at 11209 Metric Boulevard, Building H, Suite A, Austin, Texas 78758; and to Contractor, at 2010 Valley View Lane, Suite 300, Dallas, Texas 75234.

Article 12: Venue

In any legal action arising under this contract, the laws of the State of Texas shall apply and venue will be in Travis County, Texas.

Article 13: Problem Solving in the Ordinary Course of Business

Section 1: The parties to this contract shall use the procedures contained in this article for routine problem solving. These procedures may also be used if a party is asserting a claim for breach of contract. Should these procedures not resolve claims for breach of contract, the procedures contained in Article 14 shall be followed thereafter.

Section 2: Informal Resolution: Contractor and TJJD staff will communicate regularly and engage in informal problem solving efforts as a routine measure, thus preventing differences from becoming major problems. When routine measures have been exhausted, TJJD staff are encouraged to utilize the following mechanism to resolve problems.

Section 3: Formal Resolution:

- a. Contractor or TJJD staff who wish to submit problems for resolution may do so in writing, including all relevant information and a recommended resolution.
- b. The statement of problem will be submitted to the designated contact unless the problem specifically involves the designated contact, in which case, it will be submitted to the designated contact's supervisor.
- c. Problems are resolved within ten working days; written responses will be sent to the individual or program that submitted it, designated contact and designated contact's supervisor.

Section 4: Appeal: Contractor desiring to appeal the decision may do so within ten (10) business days by writing all pertinent information relevant to the appeal to the designated contact's supervisor if the problem was resolved by the designated contact; or Director of Business Operations and Contracts if the problem was resolved by the designated contact's supervisor. When appealed, the problem shall be

resolved within fourteen (14) working days; responses will be sent to the individual or program who submitted it; designated contact; designated contact's supervisor; and Director Business Operations and Contracts.

Article 14: Claims for Breach of Contract

Section 1: The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used, as further described herein, by TJJJ and Contractor to attempt to resolve any claim for breach of contract made by the Contractor .

- a. Contractor's claim for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, Subchapter B, of the Government Code. To initiate the process, Contractor shall submit written notice, as required by Subchapter B, to the Executive Director. Said notice shall specifically state that the provisions of Chapter 2260, Subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of TJJJ and Contractor otherwise entitled to notice under the parties' contract. Compliance by Contractor with Subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Government Code.
- b. The contested case process provided in Chapter 2260, Subchapter C, of the Government Code is the Contractor 's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by TJJJ if the parties are unable to resolve their disputes under subparagraph A. of this paragraph.
- c. Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by TJJJ nor any other conduct of any representative of TJJJ relating to the contract shall be considered a waiver of sovereign immunity to suit.

Section 2: The submission, processing and resolution of the Contractor's claim is governed by the published rules adopted by TJJJ pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.

Section 3: Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the Contractor in whole or in part.

Article 15: No Third Party Beneficiaries

The terms of the Agreement are for the sole benefit of the parties to the Agreement and will not be construed to confer any rights on any other person.

Article 16: Audit Clause

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under a contract or indirectly through a subcontract under the contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Contractor shall ensure that this paragraph, concerning the authority to audit funds received indirectly by subcontractors through the Contractor and the requirement to cooperate, is included in any subcontract it awards.

Contractor shall maintain and retain supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with TJJJ and State of Texas requirements. Contractor shall maintain all such documents and other records relating to this Contract and the State's property for a period of seven (7) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to the State's property, such as work papers, reports, books, data, files, software, records, and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by TJJJ, the State of Texas, or their authorized representatives. Contractor shall cooperate with auditors and other authorized TJJJ and State of Texas representatives and shall provide them with prompt access to all of such State's property as requested by TJJJ or the State of Texas. Contractor's failure to comply with this Article shall constitute a material breach of this Contract and shall authorize TJJJ to immediately assess the liquidated damages. TJJJ may require, at Contractor's sole cost and expense, independent audits by a qualified certified public accounting firm of Contractor's books and records or the State's property. The independent auditor shall provide TJJJ with a copy of

such audit at the same time it is provided to Contractor. TJJD retains the right to issue a request for proposals for the services of an independent certified public accounting firm under this Contract.

TJJD may unilaterally amend this Contract to comply with any rules and procedures of the State Auditor.

Article 17: Default

If Contractor defaults on the contract, TJJD reserves the right to cancel the contract without notice and either re-solicit or re-award the contract to the next best responsive and responsible Respondent. The defaulting Contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by the agency based on the seriousness of the default.

Article 18: Debt Owed to State of Texas

Contractor agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

Article 19: Buy Texas

In performing the contract, Service Provider shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside Texas.

Article 20: Specifications

The services performed shall be in accordance with the purchase specifications herein. TJJD will determine the answers to all questions that may arise as to the interpretation of the specifications and the quality or acceptability of work performed. TJJD will decide the rate of progress of the work and the acceptable fulfillment of the service on the part of the Contractor.

Article 21: Access to Information

Contractor is required to make any information created or exchanged with TJJD pursuant to this contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to TJJD. Contractor agrees to provide TJJD with this information in a format that is accessible to the public, including but not limited to non-encrypted electronic format, PDF, and HTML."

Article 22: Verification of Worker Eligibility Clause

Section 1: If Contractor is not enrolled in the U.S. Department of Homeland Security's E-Verify system ("E-Verify") at time of contract award, Contractor shall:

- a. Enroll in the E-Verify program within 30 calendar days of contract award; and
- b. After enrolling in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire.

Section 2: If Contractor is enrolled in E-Verify at time of contract award, Contractor shall use E-Verify to initiate verification of employment eligibility of all new hires of Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire.

Section 3: Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program Memorandum of Understanding (MOU). If the Department of Homeland Security (DHS) or the Social Security Administration (SSA) terminate Contractor's E-Verify program MOU and deny access to the E-Verify system in accordance with the terms of the MOU, TJJD may terminate this contract.

Section 4: Contractor shall include the requirements of this clause, including this paragraph (appropriately modified for identification of the parties), in each subcontract under this contract that is for services or construction.

Section 5: Contractor shall provide, upon request of TJJD, an electronic or printed image of the confirmation or non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9

for each of Contractor's employees, subcontractors, and subcontractors' employees that meet the criteria above.

Section 6: If Contractor fails to comply with the requirements of this clause, TJJD may terminate this contract, withhold payment, or impose other administrative error sanctions.

Section 7: The requirements of this clause only apply to contracts for services or construction.

Article 23: Assignment

Without the prior written consent of TJJD, Contractor may not assign this Contract, in whole or in part, and may not assign any right or duty required under it.

Article 24: Compliance with Other Laws

In the execution of this Contract, Contractor shall comply with all applicable federal, state, and local laws, including laws governing labor, equal employment opportunity, safety and environmental protection. Contractor shall make itself familiar with and at all times shall observe and comply with all federal, state and local laws, ordinances and regulations which in any manner affect performance under this Contract.

Article 25: Execution Authority

Contractor represents and warrants that the individual signing this Contract is authorized to sign this document on behalf of Contractor and to bind Contractor under this contract.

For Contractor:

 _____
Signature Printed Name Title Date

Ray Reno Owner/Partner 11-16-15

For the Texas Juvenile Justice Department:

 _____
David Reilly, Executive Director Date

11/16/15

Approved as to form:

 _____
Benjamin Bellomy, TJJJ Attorney Date

10/30/2015