

Approved

**REQUEST FOR AGENDA PLACEMENT FORM**

Commissioners Court

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

OCT 23 2017

SUBMITTED BY: Cristy Malott

TODAY'S DATE: 10-16-17

DEPARTMENT: Juvenile Services

SIGNATURE OF DEPARTMENT HEAD:

*C Malott*

REQUESTED AGENDA DATE: October 23, 2017

SPECIFIC AGENDA WORDING: Brown County Contract for Pre Adjudication Detention Services

PERSON(S) TO PRESENT ITEM: Cristy Malott

*Bill Moore*

SUPPORT MATERIAL: (Must enclose supporting documentation)

TIME: 1 min

ACTION ITEM: X

WORKSHOP:

(Anticipated number of minutes needed to discuss item) CONSENT:

EXECUTIVE:

STAFF NOTICE:

COUNTY ATTORNEY: X

IT DEPARTMENT:

AUDITOR:

PURCHASING DEPARTMENT:

PERSONNEL:

PUBLIC WORKS:

BUDGET COORDINATOR:

OTHER:

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

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

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

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

STATE OF TEXAS  
COUNTY OF BROWN

CONTRACT AND AGREEMENT FOR  
DETENTION OF JUVENILE OFFENDERS

This Contract and Agreement made and entered into by and between the County of Brown, acting by and through its duly authorized representatives, the Commissioners' Court of Brown County, Texas, Ray West, County Judge, and the County of JOHNSON acting by and through its duly authorized representatives, the Commissioners' Court of JOHNSON County Judge, to be effective September 1, 2017 to August 31, 2018.

WITNESSETH:

Whereas, Brown County operates the 35<sup>th</sup> Judicial District Juvenile Justice Center, whereas, JOHNSON County, in order to carry out and conduct its juvenile program in accordance with the Texas Juvenile Court Act (Texas Family Code) has need of the use of **holding detention** facilities to house and maintain children of juvenile age, referred for an act of delinquency or an act indicating a need for supervision, during pre-adjudication status, and

Whereas, Brown County desires to make the facilities available to JOHNSON County for such use and purpose, and JOHNSON County desires to contract for the use of said facility:

Now, therefore, the parties agree as follows:

1. The term of this contract shall be for a period of one year from the effective date. If either party hereto feels in its judgment that the contract cannot be successfully continued and desires to terminate this contract, then the party so desiring to terminate may do so by notifying the other party in writing, by certified mail or personal delivery to its principal office, of its intention to terminate the contract thirty (30) calendar days from the date of Notice to Terminate is received by the other party. At 12:00 o'clock midnight thirty (30) calendar days thereafter, this contract shall terminate, become null and void, and be of no further force or effort. After receipt of notice of termination, JOHNSON County shall remove all children placed in the facilities on or before the termination date.
2. Brown County will provide room and board, twenty-four hours a day, seven (7) days a week supervision, and counseling to each child placed within the facility. Brown County will also provide routine medical treatment that may customarily

and reasonably be provided with the facility however, Brown County shall not provide nor be responsible for emergency examination, treatment, hospitalization, or any other service requiring transportation or removal of the child outside the facility. Any outside medical procedure, treatment, examination, or hospitalization shall be the sole responsibility and obligation of JOHNSON County.

3. JOHNSON County agrees to pay Brown County the sum of \$95.00 per day for each space utilized. This sum shall be paid to Brown County upon billing and paying procedures agreed upon by the contracting counties and the auditor of Brown County, Texas. The per day cost being based on the projected actual cost of care for children in the facility.
4. If emergency examination, treatment, and/or hospitalization outside the facility are required for a child placed in the facility by JOHNSON County, the Administrator of the facility authorized to secure such examination, treatment, or hospitalization at the expense of JOHNSON County and to request that JOHNSON County be billed for the same. JOHNSON County, agrees to reimburse Brown County, its representatives, agents, and employees for any charges for medical treatment, examination and/or hospitalization. The administrator shall notify Johnson County of such emergency within twenty-four hours of its occurrence.
5. Prior to transporting a child to the facility for placement, the official authorizing placement shall call the facility to insure that space is available. The detention needs of Brown County takes precedence over those of contract counties and placement of children from JOHNSON County may be denied is space limitations require.
6. Children from JOHNSON County who alleged to have engaged in delinquent conduct or conduct indicating a need for supervision (CINS) will be admitted to the facility under the authority of the Juvenile Court of Brown County, or its designated official.
7. Each child placed therein shall be required to follow the rules and regulations of conduct as fixed and determined by the Administrator of the facility.
8. If a child is accepted by the facility from Brown County and such child thereafter if found to be, in the sole judgment of the Administrator, mentally unfit, dangerous,

or unmanageable or either of such conditions or characteristics, or whose mental or physical health condition would or might endanger the other occupants of the facility, then in the Administrator's sole judgment, upon such determination and notification by the Administrator to the JOHNSON County Juvenile Judge or Probation Office, a Juvenile Probation Officer or Deputy Sheriff shall immediately and forthwith remove or cause to be removed such child from the detention facility.

9. Brown County agrees that the facility will accept any child qualified hereunder, without regard to child's religion, race, creed, color, sex, or national origin.
10. It is understood and agreed by the parties hereto that children placed in the facility under proper orders of the Juvenile Court of JOHNSON County shall be maintained therein except that the staff of either facility may take the children under supervision from the facility to participate in Community activities.
11. It is further understood and agreed by the parties hereto that children placed in pre-adjudication care facilities may be granted furloughs with parents, guardian, custodian, or other responsible adults only after prior approval of the Judge of Juvenile Court in JOHNSON County or his designated representative.
12. It is further understood and agreed by the parties hereto that children placed in pre-adjudication facilities shall be removed there from by JOHNSON County, its agents, servants, or employees at the conclusion of the 48 hour period (excluding weekends and holidays).
13. It is further understood and agreed by the parties hereto that a child in pre-adjudication care not removed by JOHNSON County, its agents, servants, or employees as noted above (#12) by 12:00 o'clock noon of the second working day of detention, that an employee of Brown County will deliver the child to the Juvenile Court of JOHNSON County for which there will be additional charge of .56 cents per mile, for a total charge of mileage.
14. It is further understood and agreed by the parties hereto that nothing in this contract shall be construed to permit JOHNSON County, its agents, servants, or employees in any way to manage, control, direct, or instruct Brown County,

its servants, employees in any manner respecting any of their work, duties, or functions pertaining to the maintenance and operation of the facility. However, it is also understood that the Juvenile Court of JOHNSON County shall control the conditions and terms of the detention supervision as to a particular child pursuant to Texas Family Code, Section 51.12.

## **II. DEFAULT**

1. Johnson County may be given written notice of default to Brown County, terminate in whole or any part of this contract in any of the following circumstances:
  - a. If Brown County fails to perform the work called for by this contract within the time specified herein or
  - b. If Brown County fails to perform any of the provisions of this contract, or fails to prosecute the work as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such extensions as authorized by JOHNSON County in writing) after receiving notice of default.
  - c. Except with respect to defaults of subcontractors, Brown County shall not be liable for any excess cost if the failure to perform the contract arises out of caused beyond the control and without the fault or negligence of Brown County. If the failure to perform is caused by default of a subcontractor, and without the fault of negligence of either of them Brown County shall not be liable for any excess costs for failure to perform.

## **III. OFFICIALS NOT TO BENEFIT**

No officer, member, or employee of the Criminal Justice Division and no member of its governing body, and no other public officials of Brown County who exercise any function or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this contract which affects his personal interest or have any personal pecuniary interest, direct, or indirect, in this contract or the proceeds thereof.

No member of the Delegate to the Congress of the United State of America, no Resident Commissioners' or employee of the Law Enforcement Assistance Administration or the Department of Justice shall be admitted to any share or part thereof or to any benefit that may arise there from.

No member of or Delegate to the Congress, or State Official, or Resident Commissioner shall be allowed to any share or part of this contract, or any benefit that may rise there from.

Brown County agrees to insert this Clause III into all subcontracts entered into the performance of the work assigned by this contract.

#### **IV. EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this contract, Brown County agrees as follows:

- a. Brown County will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Brown County will take affirmative action to insure that applicants are employed and the employee's are treated during employment without regard to their race, color, or religion. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or advertising, lay-off or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Brown County agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provision of this non-discrimination clause.
- b. Brown County will in all solicitations or advertisement for employees placed by or on behalf of Brown County, state that all qualified applicants for positions in the detention center will receive consideration for employment without regard to race, color, religion, sex, or nation origin.

## V. PRISON RAPE ELIMINATION ACT

The Facility shall adopt and comply with all federal, state, county, and city laws, ordinances, regulations and standards applicable to the provision of service described herein and the performance of all obligations undertaken pursuant to this Contract, including the Prison Rape Elimination Act of 2003 (PREA) which establishes a zero-tolerance standard against sexual assault of incarcerated persons, including juveniles, and addresses the detection, elimination, prevention, and reporting of sexual assault in facilities housing adult and juvenile offenders.

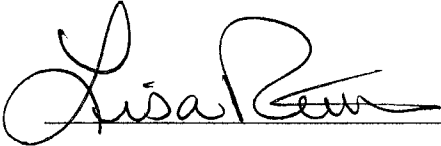
This Contract Agreement this date executed is made by and between the parties hereof, it being the declared intention of the parties hereto that the above and foregoing contract is a contract providing for the care of children who have allegedly committed an act of delinquency or an act indicating a need for supervision and payment for such care by JOHNSON County for such children placed in the facility by the Judge of JOHNSON County having juvenile jurisdiction.

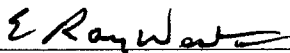
This contract is in lieu of all previous contracts between Brown County and JOHNSON County for these purposes. Said previous contract to terminate, become null and void, and be of no further force or effect of the date this contract becomes effective.

Executed in duplicate this 14, day of July, 2017,  
to be effective 1<sup>st</sup>, day of September, 2017, and each  
copy hereof shall be considered an original copy for all  
purposes.

Approved as To Form:

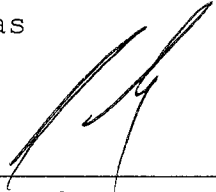
COMMISSIONERS' COURT OF  
BROWN COUNTY, TEXAS

  
\_\_\_\_\_

  
\_\_\_\_\_

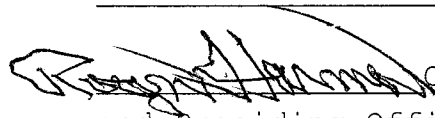
Lisa Ritter  
Chief Juvenile Probation  
Officer, Brown County,  
Texas

Ray West, County Judge  
and Presiding Officer of  
Said Court

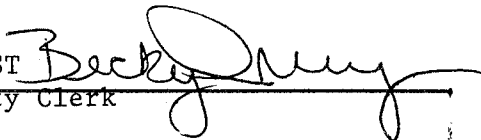
  
\_\_\_\_\_  
Johnson County Juvenile  
Board Chairman

COMMISSIONERS COURT OF  
Johnson County  
\_\_\_\_\_ Court

10-10-17  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
County Judge  
and Presiding Officer of Said  
Court



ATTEST   
\_\_\_\_\_  
County Clerk



## Exhibit "A"

### JUVENILE CONTRACT TERMS

#### ADDENDUM

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This Addendum is a part of an agreement made between **Johnson County** and **Brown County** hereinafter known as **SERVICE PROVIDER**. The primary agreement is identified as **CONTRACT AND AGREEMENT FOR DETENTION OF JUVENILE OFFENDERS**. This Exhibit "A" addendum is being incorporated into said agreement for all purposes.

#### General Legal and Regulatory Compliance

1. SERVICE PROVIDER shall comply with all state and federal laws, regulations, standards, policies, and procedures applicable to SERVICE PROVIDER and provision of services.
2. The SERVICE PROVIDER shall keep all applicable certification and/or licenses current. SERVICE PROVIDER shall provide COUNTY with proof of current state license, certification, or other necessary regulatory permits, and similar documents. A copy of such documents should be delivered to Johnson County Juvenile Services office and made a part of the Service Provider's file with the County upon execution of this contract. This requirement applies to subcontractor who supplies or provides any subcontracted service under this contract. Additionally, proof of current licenses or certifications shall be provided on an annual basis, regardless of the dates of renewal or the dates of this contract.
3. SERVICE PROVIDER shall provide professional credentials and licensing of staff as applicable.
4. SERVICE PROVIDER shall notify COUNTY within 7 days should any license be suspended or revoked.
5. SERVICE PROVIDER shall disclose any pending or initiated criminal or governmental investigations related to service provider (e.g., FBI, DOJ, TJJD, etc.). This disclosure shall be made in writing and shall be made within 7 days of Service Provider becoming aware of such investigation.
6. This Agreement will be governed by and construed according to the laws of the State of Texas. Venue for any action or claim arising out of the Agreement shall be Johnson County, Texas. Any action brought in Federal Court shall be brought in the Northern District of Texas, Dallas division.

#### Accounting, Reporting and Auditing Requirements

7. The County will monitor the SERVICE PROVIDER and exercise reasonable care to enforce all terms and conditions of this contract. SERVICE PROVIDER agrees to fully cooperate in the monitoring process.
8. SERVICE PROVIDER understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards.

9. SERVICE PROVIDER shall **certify eligibility to receive state funds** under Section 231.006 of the Texas Family Code regarding child support. ~~Further in accordance with 231.006 of the Texas Family Code, no person who is the sole proprietor, a partner, a shareholder, or an owner of twenty five (25%) or more of SERVICE PROVIDER is more than thirty (30) days delinquent in paying court ordered child support.~~ Completion of TJJJ-FIS-180 will satisfy this requirement. SERVICE PROVIDER fully acknowledges that this agreement may be terminated and payment may be withheld if this certification is inaccurate. Further, by signing this Addendum SERVICE PROVIDER states and certifies as follows:

"Under Section 231.006, Family Code the SERVICE PROVIDER 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."

- ~~10. SERVICE PROVIDER shall be a vendor in good standing [i.e. not on "vendor hold"] with the Texas Comptroller of Public Accounts, if applicable.~~

11. SERVICE PROVIDER agrees to the use of Generally Accepted Accounting Principles (GAAP).

12. SERVICE PROVIDER is hereby notified that funds received in the provision of this contract may be in whole or in part funds issued by the State. The SERVICE PROVIDER agrees to account separately for the receipt and expenditure of any and all funds paid to the SERVICE PROVIDER by the County.

**13. Payment shall be made pursuant to Chapter 2251 Texas Government Code**

- 13A. Pursuant to Texas Government Code Section 2251.021 and this Amendment, a payment by a governmental entity under a contract is overdue on the 31st day after the later of:

- (1) the date the governmental entity receives the goods under the contract;
- (2) the date the performance of the service under the contract is completed; or
- (3) the date the governmental entity receives an invoice for the goods or service.

- 13B. Pursuant to Texas Government Code Section 2251.025 and this Amendment, A payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of:

- (1) one percent; and
- (2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

- 13C. Interest on an overdue payment stops accruing on the date the governmental entity or vendor mails or electronically transmits the payment

- 13D. Payment of Interest by Political Subdivision shall be pursuant to Texas Government Code Sec. 2251.027

- (a) A political subdivision shall compute interest imposed on the political subdivision under this chapter.
- (b) The political subdivision shall pay the interest at the time payment is made on the principal.
- (c) The political subdivision shall submit the interest payment with the net amount due for the goods or service.

- (d) The political subdivision may not require a vendor to petition, bill, or wait an additional day to receive the interest due.
- (e) The political subdivision may not require a vendor or subcontractor to agree to waive the vendor's or subcontractor's right to interest under this chapter as a condition of the contract between the parties.

14. SERVICE PROVIDER shall retain all records for a minimum of **7 years** following the closure of the most recent audit report or until any pending audits, and any outstanding litigation, audit, or claim has been resolved and all questions arising therefrom have been resolved and shall make available for inspection and/or monitoring by the County, Texas Juvenile Justice Department, or any state or federal agency authorized to inspect the same.

#### Miscellaneous Provisions

15. **Open Records:** To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't. Code §552.001 *et seq.*, as amended (the "Open Records Act"), the same shall be of no force and effect. Furthermore, it is expressly understood and agreed that Johnson County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Open Records Act.

16. **Limitation on the Right to Bring Action:** The laws of the State of Texas, Texas Civil Practice and Remedies Code, Section 16.070, as amended shall govern limitations for the right of SERVICE PROVIDER to bring an action, regardless of form, thus any provision to the contrary is void.

17. **Claim for Future Revenue:** Under Texas Law, a contract with a governmental entity that contains a claim against future revenues is void, thus any provision to the contrary is void.

~~18. **Indemnification:** The parties agree that under the Constitution and laws of the State of Texas, Johnson County cannot enter into an Agreement whereby Johnson County agrees to indemnify or hold harmless any other party; therefore, all references of any kind to Johnson County indemnifying, holding or saving harmless for any reason whatsoever are hereby deleted.~~

19. **Affirmative Action:** The SERVICE PROVIDER will take affirmative action to ensure any and all applicants are employed and treated during employment without regard to their race, religion, color, sex, national origin, age or handicap.

20. **Workplace Guidelines and Confidentiality:** SERVICE PROVIDER shall comply with the law and TJJD rules. ~~agrees that it shall adopt and implement work place guidelines concerning persons with AIDS and HIV infection and shall also develop and implement guidelines regarding confidentiality of AIDS and HIV related medical information for employees, clients, staff and residents served by the Juvenile Probation Department.~~

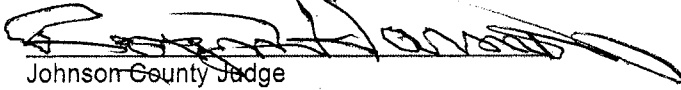
21. **No Person or Pecuniary Interest:** No officer, member or employee of Johnson County, and no member of its governing body and no other public officials of the governing body of the locality or localities in which the project is situated or being carried out who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project shall participate in any decision relating to this Contract which affects his/her personal interest, have any personal or pecuniary interest, direct or indirect, in this contract or the proceeds thereof.

22. **No Discrimination:** SERVICE PROVIDER 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, 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, religion, age, sex, color, national or ethnic origin, handicap, or any other illegal discriminatory basis or criteria.

**23. No Subpoena Required for Testimony:** Upon reasonable request from Johnson County Juvenile Services or the Johnson County Attorney's Office, Service Provider's employees and agents who have contact with juveniles and their families or who provide program services shall testify in court and shall NOT require a subpoena or fail to testify based upon lack of a subpoena, or residing, working, or otherwise being beyond the range of a subpoena.

In the event of any conflict between either the terms and provisions of this addendum and the terms and provisions of those contractual provisions tendered to Johnson County, this addendum shall control.

APPROVED AS TO FORM AND CONTENT:


  
\_\_\_\_\_  
Johnson County Judge

10/23/17  
Date


Attest:

  
\_\_\_\_\_  
Johnson County Clerk,  
Becky Ivey or Deputy County Clerk

10/23/17  
Date

  
\_\_\_\_\_  
Johnson County Juvenile Board Chairman

10/10/17  
Date

  
\_\_\_\_\_  
E. Ray West, III  
Brown County Judge  
Chairman, 35<sup>th</sup> District Juvenile Board

October 5, 2017  
Date

