

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

**INDEFINITE DELIVERY INDEFINITE QUANTITY (IDIQ) AGREEMENT NO. CON0001529  
FOR PROFESSIONAL SERVICES**

Pursuant to authority granted in the Professional Services Procurement Act, Texas Government Code (TGC), Chapter 2254, this IDIQ Agreement is made and effective **upon final signature** and entered into by and between the **Texas Juvenile Justice Department** (hereinafter referred to as "TJJJ" or "Owner"), a Texas state agency, and **DBR Engineering Consultants, Inc.** (hereinafter referred to as "Design Professional" or "DP"), [REDACTED]. This contract is identified as contract number **CON0001529**.

Wherein, TJJJ may, but is not obligated to, from time to time engage the professional services of the DP for one or more specific projects and identify the particular professional services needed therefor through an Assignment.

This Agreement is composed of the following documents:

1. This contract, including all attachments and exhibits;
2. Request for Qualification (RFQ) Indefinite Delivery Indefinite Quantity (IDIQ) Professional Engineering Services #644-23-122822, hereby incorporated by reference;
3. Service Provider's proposal dated May 17, 2023, hereby incorporated by reference.

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

**SECTION I: CONTRACT TERM**

This contract is effective from September 1, 2023, through August 31, 2025. Prior to expiration of the original term, TJJJ has the option to renew the contract, by amendment, for an additional two (2) two-year renewal options under the same or revised terms and conditions, upon mutual agreement of the parties to be evidenced in writing prior to the expiration date of the initial contract term or, if applicable, the expiration date of the initial two (2) year renewal term. At TJJJ's sole discretion, prior to expiration of the final two (2) year renewal option (if exercised), the contract agreements may be extended as needed, not to exceed a total of ninety (90) calendar days. The rate and services may be renegotiated based on performance and service delivery and the mutual agreement of both parties.

**SECTION II: SERVICE PROVIDER**

SCOPE: The Service Provider will provide Indefinite Delivery Indefinite Quantity (IDIQ) professional engineering and other specialized professional services.

**SECTION III: ARTICLES OF AGREEMENT**

For the consideration set forth, the TJJJ and DP enter into this Agreement described herein and further detailed in the following Articles and Exhibits attached hereto and made a part hereof for all purposes.

**Articles of this Agreement:**

Article 1	DP's Responsibilities	Article 11	Disputes
Article 2	Basic Services	Article 12	Termination of Agreement
Article 3	Additional Services	Article 13	Miscellaneous Provisions

Article 4	The Owner's Responsibilities	Article 14	Successors and Assigns
Article 5	Construction Cost	Article 15	Conflict of Interest
Article 6	Direct Personnel Expense	Article 16	Basis of Compensation
Article 7	Reimbursable Expenses	Article 17	Extent of Agreement
Article 8	Payments to the DP	Article 18	Term
Article 9	DP's Accounting Records		
Article 10	Ownership of Documents		

**Exhibits to this Agreement:**

	Attachment A HUB Subcontracting Plan (HSP)
	Attachment B Execution of Submittal and Texas Family Code
	Attachment C Statement of Qualifications and Experience
	Attachment D Conflict of Interest Certification
Exhibit A	Project Description - Basic Services
Exhibit B	Indefinite Delivery Indefinite Quantity (IDIQ) Agreement for Professional Services
Exhibit C	Compensation for Basic Services/Applicable Statutory Fee Limitation/Fixed Limit of Construction Cost/On-Site Inspections
Exhibit D	Authorization and Compensation Additional Services, Reimbursable Expenses
Exhibit E	Project Schedule
Exhibit F	Professional Liability Insurance
Exhibit G	Format for Reporting Fees (Basic Services, Additional Services, Reimbursables)
Exhibit H	Design Requirements/Standards and Codes
Exhibit I	Outside Consultant (s)
Exhibit J	Standards of Conduct for Civilian Employees
Exhibit K	Design Professional's Release (Specimen)
Exhibit L	Record Drawing Requirements
Exhibit M	TJJD Guide for Delivery of Architectural/Engineering Services
Exhibit N	Hourly Rate Schedule for Billing
Exhibit O	Terms and Conditions

**EXHIBIT A**  
**PROJECT DESCRIPTION**  
**BASIC SERVICES**

(IDIQ Agreement for Professional Services)

**ARTICLES OF THIS EXHIBIT:**

***A.1 Scope of Services (General)***

***A.2 Description of Basic Services***

- A.2.0 Basic Services (General)
- A.2.1 RESERVED
- A.2.2 Schematic Design Phase
- A.2.3 RESERVED
- A.2.4 Design Development Phase
- A.2.5 Construction Documents Phase
- A.2.6 Bidding and Award Phase
- A.2.7 Construction Phase - Administration of the Construction Contract

***A.3 Design and Construction Documents to be Provided***

***A.4 Communications***

**A.1 SCOPE OF SERVICES (GENERAL)**

Professional services needs are anticipated for multiple facilities across the State of Texas, representing a wide variety of building/occupancy types. Specific projects are likely to be identified with scopes that are predominately, but not limited to: 1) Utility; 2) Road and Site Work; 3) Safety/Security; 4) General Building Repairs; and 5) HVAC System Replacement. The size and quantity of a project assigned to the successful DP will vary depending on project need, schedule, DP's work load, and availability of funding.

The DP shall develop their design and construction documents in accordance with this Agreement including the TJJJ Guide for Delivery of Design Architectural/Engineering Services (Exhibit N) and comply with the requirements set forth by the G Design Requirements – Codes, Standards, Procedures and Court Stipulations/Orders (Exhibit G).

The Owner intends for the DP to develop bidding documents, which might have alternates to achieve a project bid that will not exceed the "Fixed Limit of Construction Cost".

The Owner intends for the Design Professional to develop a single package of bidding documents for the project. However, to maintain the Project delivery schedule, the DP may have to develop and issue multiple packages of bidding documents for the project. The DP may request additional compensation for more than two (2) packages of bidding documents, provided such additional packages are required by causes not within the control of the DP.

Basic services to be provided by the DP for this Project include the following: Scope of Services (General), Basic Services (General), Schematic Design Phase, Design Development Phase, Construction Documents Phase, Bidding and Award Phase, Construction Phase Design and Construction Documents to be Provided, and Communications. These services are described in further detail below.

## **A.2 DESCRIPTION OF BASIC SERVICES**

### **A.2.0 BASIC SERVICES (GENERAL)**

The DP's Basic Services consist of the Work described in Article 2 and in this Exhibit A including, but not limited to: programming, minor architectural design, various engineering disciplines (civil, mechanical, electrical, and security electronics), and security design work normal to this type of project.

The DP shall include as a part of Basic Services travel time, transportation expenses and living expenses to make the trips to Austin and to the Project site(s) as necessary to provide the Basic Services described in Article 2 and in this Exhibit A. The DP shall attend the design review meetings as described this Agreement and is responsible for preparing minutes of these meetings. The purpose of design review meetings is to review/or approve design documents prepared by the DP during each design phase of the DP's Basic Services. Within five working days of the design review meeting, the DP will distribute the minutes of each design review meeting to the Owner.

With each design review submittal the DP will provide as an inclusion to that submittal a check sheet showing compliance with the submittal requirements. The DP will also include as part of this check sheet all other design submittal requirements established in this Agreement applicable to the specific design phase submittal. Should the DP fail to include all requirements of the submittal, the DP will provide a written explanation of why the submittal is incomplete and provide an approximate date when the DP will submit the remaining documentation. Until such time as all submittal requirements are provided to the Owner, the submittal will be deemed incomplete. The Owner may make adjustments to the DP compensation to include withholding payment for incomplete submittals.

Throughout the duration of the Project, the DP shall coordinate his design effort(s) with the Design Requirements – Codes, Standards, Procedures and Court Stipulations/Orders (Exhibit G) so that the applicable governmental requirements are met by the DP's design. The Owner and DP recognize time is of the essence. The Owner shall provide interim written approvals of the work products and written authorization to proceed with subsequent phases prior to completion of major phases. This shall enable the DP to simultaneously produce various phases of the programming and design scope of services in order to aid the achievement of the design schedule presented herein. The Owner shall not unduly withhold such approvals or authorization.

### **A.2.1 RESERVED**

**A.2.1.1** Reserved.

## **A.2.2 SCHEMATIC DESIGN PHASE**

**A.2.2.1** The DP shall review and evaluate the Owner's program and budget requirements. The DP shall assist the Owner in refining the Program of Requirements to achieve a Project Construction Cost consistent with the Fixed Limit of Construction Cost established in Exhibit B. If necessary, the DP shall review with the Owner alternative approaches to the design and construction of the Project.

**A.2.2.2** The DP shall conduct a site analysis. The orientation of the facility on the site will be determined as the result of an analysis of site-specific issues such as access, utilities, topography, drainage, geotechnical characteristics, energy efficiency, and environmental factors.

**A.2.2.3** Based on the analysis of the site-specific issues, the DP shall prepare and submit (for Owner review/approval) Schematic Design Documents. The DP shall prepare such submittals as described in the TJJJ Guide for Delivery of Architectural/Engineering Services (Exhibit N). Such submittals shall consist of drawings and other documents necessary to fix and illustrate the facility location and orientation to the site; location and available service of all utilities; proposed right-of-ways; utility connections interface; major roads and highways that serve the project; entrance road; and such other elements as may be required for the Owner to reach approval. The DP shall submit review sets to the Owner in accordance with the Project Schedule as shown in Exhibit D.

**A.2.2.5 Schematic Design:** Design studies shall be required to fully explain the presented design and possible alternatives. There will be a working session at the Owner's office where the DP is expected to present conceptual design studies. The DP may present concept schemes in a single line, rough sketch, free-hand, to-scale format with sufficient detail to allow adequate comparison of the schemes; or the DP may present such information in CADD format. This step may require several attempts before a firm direction for proceeding with Schematic Design can be set.

The selected design direction may be one of the schemes or a combination of ideas from any of the schemes or ideas developed in lieu of any of the presented schemes. When the selected design results in an acceptable solution, the Owner may authorize the DP to proceed with the development of a final concept design.

**A.2.2.6 Schematic Design - Final Stage:** The DP shall begin design investigations and document development of the previously approved concept.

The Schematic Design Stage may require a meeting for review of Schematic Design documents of this phase of the work. This meeting shall be held at the Owner's office. The DP's representative(s) and necessary Project Consultants shall be available at this meeting for a detailed presentation and discussion of the submitted design.

This design submittal will be checked for budget compliance and coordination of Architectural, Structural, Mechanical, Electrical, and Plumbing designs.

A comparison of estimated construction costs between systems, and between system options will be required at this presentation. This stage will include any recommended bid packages, alternates and/or phasing for the project. The time frame for this submittal will be made in accordance with Exhibit D.

## **A.2.3 RESERVED**

## **A.2.4 DESIGN DEVELOPMENT PHASE (If Used)**

**A.2.4.1** Based on the Schematic Design documents and any adjustments in the program, schedule, or Fixed Limit of Construction Cost authorized by the Owner, the DP shall prepare for review/approval by the Owner, Design Development Documents. The DP shall produce documents/submittals, as described in the TJJJ Guide for Delivery of Architectural/Engineering Services (Exhibit N), to fix and describe the size and character of the Project as to the architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. Submittal requirements for this stage shall be determined by the Owner's Design Coordinator. The DP shall advise

the Owner of any adjustments to the estimate of Construction Cost. The DP shall submit review sets to the Owner in accordance with the Project Schedule as shown in Exhibit D.

**A.2.4.2** Reserved.

**A.2.4.3** Reserved.

**A.2.4.4 Design Development:** This stage shall include further system options development within the overall approved options for structural, mechanical, electrical, plumbing and architectural system.

The Owner and DP will schedule a submittal review meeting for this stage to be held at the Owner's office. The Design Development submittal/meeting will address analysis of the options for structural, HVAC, plumbing, electrical and site utility systems, recommended and previously approved in the Schematic Design Phase.

A comparison of construction costs between systems and between system sub-options will be required at this review. The Owner's Design Coordinator shall determine submittal requirements for this stage of the project development. The format for this submittal shall be a combination of information/options previously approved and leading toward the Final Design Development Submittal format.

The DP shall be prepared to give a narrative discussion of the materials and/or equipment proposed including advantages and disadvantages related to installation, durability and maintenance requirements. The DP shall advise the Owner's Design Coordinator of any changes in the bid package, alternates and/or phasing of the project.

**A.2.4.5** Reserved.

## **A.2.5 CONSTRUCTION DOCUMENTS PHASE**

**A.2.5.1** Based on the Design Development Documents and any further adjustments in the scope or quality of the project(s) or in the construction budget for the project(s) authorized by the Owner, the DP shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project. The DP shall produce documents/submittals, as described in the TJJJ Guide for Delivery of Architectural/Engineering Services (Exhibit N).

**A.2.5.2** This phase shall provide continued development and expansion of drawings, details and other documents from previous phases, to establish final bidding and construction documents. The construction documents for each bid package shall consist of working drawings and details, schedules, and technical specifications, giving the requirements for competitive bidding and construction of the entire project. Bidding and construction drawings for all divisions of work shall be complete and thorough in all respects, well-coordinated, clear and organized in a consistent format throughout the documents.

**A.2.5.3** The Owner and DP will schedule a meeting(s) for review of documents of this phase of the work. The meeting(s) will be held at the Owner's office. The DP's representative(s) and all Project Consultants shall be available at the meeting(s) for a detailed discussion and review of the submitted documents.

**A.2.5.4** The DP shall submit review sets of Construction Documents to the Owner for review in accordance with Exhibit D (Project Schedule) at the following stages:

- 1) at approximately 70% complete;
- 2) at Substantial Completion of the Construction Documents;
- 3) when complete for Final Review by Owner; and
- 4) after all Owner Review comments have been incorporated to the Owner's satisfaction.

The 70% submittal by the DP should be complete as they pertain to Texas Department of Licensing and Regulations (TDLR) accessibility issues if needed for new construction. The DP shall as part of the 70% submittal submit a review set of drawings and specifications to the (TDLR) for ADA review (Exhibit G). The

DP shall notify the Owner within three (3) working days of any exceptions TDLR may take with the documents. The DP shall coordinate with the Owner any corrective action required. Such corrective action will be accomplished promptly and insure the documents attain TDLR approval prior to the scheduled document release date stated in Exhibit D.

**A.2.5.4.1 For new construction projects only:** With the first set of review documents, the DP shall submit to the Owner, for approval, a list of On-Site Inspections, which the DP shall make during the Construction Phase of the Project. The list shall be specific as to frequency of inspections, nature of inspections, and who will conduct the inspections (i.e., Architect, Structural Engineer, Mechanical Engineer, Electrical Engineer, etc. See A.2.7.6.1.7 for required inspections). This list shall be consistent with the Professional Inspection requirements established in the Construction Phase article of this exhibit. Within the Construction Documents, the DP will specifically identify any Work which will require inspection by the DP, as well as the number of days' notice which the Contractor will be required to give to the DP and Owner prior to receiving said inspection.

**A.2.5.5** During periods of Owner Review, the DP shall continue working on the documents. When Owner Review comments are received by the DP, they shall be tabulated and sorted according to discipline, and distributed to the appropriate personnel or consultants. With each successive submission, the DP shall make one of the following affirmations to the Owner for each comment:

- 1) the comment has been incorporated into the documents by the DP's staff;
- 2) the comment has been incorporated by his consultants and verified as correct by the DP, or;
- 3) the comment has been reviewed and the DP or his consultants have taken exception to making the change. This affirmation shall include a complete explanation of the reasons for the DP's exception.

**A.2.5.6** The DP shall assist the Owner (as further described in Article 1 of the Agreement) with the filing of required documents to secure approval of governmental authorities having jurisdiction over the design of the Project. The DP shall submit their documentation required for filing with the governmental authority(s) having jurisdiction sufficiently in advance of the scheduled document release date to receive approval from the required authority(s) and/or incorporate the necessary changes in the documents required for such approval prior to the scheduled date specified for release of the bid documents.

**A.2.5.7** The DP shall assist the Owner in the preparation of the necessary bidding information, bidding forms and Special Conditions. These documents, together with the Construction Documents, will hereinafter be called the Bid Documents.

**A.2.5.8** The DP shall advise the Owner of any adjustments to previous preliminary estimates of Construction Cost indicated by changes in requirements or general market conditions.

**A.2.5.9** Reserved.

## **A.2.6 BIDDING AND AWARD PHASE**

**A.2.6.1** Following the Owner's approval of the Construction Documents and the latest estimate of Construction Cost, the DP shall assist the owner, if necessary, in technically evaluating proposals from contractors and, if necessary, assisting the Owner in the preparation of construction contracts. The DP shall perform these services in accordance with the Project Schedule as shown in Exhibit D.

**A.2.6.2** Prior to issuing the bidding documents, the DP shall assist the Owner in establishing a price for which each set of bidding documents shall be sold to prospective bidders. The DP shall calculate the estimated cost for printing, binding and shipping and for the DP's labor costs to distribute and monitor the issuance of the documents. The DP's labor costs shall be based on direct personnel expenses as defined. The Owner may establish a price which is less than the estimated cost. Neither the Owner nor the DP shall make any profit from the sale of bidding documents.

**A.2.6.3** Reserved.

**A.2.6.6** The DP shall receive, record, review and process submitted requests for substitutions. Approved substitutions will be published by the DP in Addenda. The DP shall document reasons for rejected substitutions and advise submitter of the rejection. The DP shall render interpretations and clarifications of the construction documents in appropriate written/drawing form approved by the owner.

**A.2.6.7** Reserved.

## **A.2. CONSTRUCTION PHASE - ADMINISTRATION OF THE CONSTRUCTION CONTRACT**

**A.2.7.1** The Construction Phase Administration Of The Construction Contract will commence with the award of the initial Contract for Construction and, together with the DP's obligation to provide Basic Services under this Agreement, will end when final payment to all Contractors is due, or in the absence of a final Project Certificate for Payment or of such due date, on the scheduled date of construction completion as determined by using the total duration for Construction Phase Administration established in Exhibit D, whichever occurs first.

**A.2.7.2** Unless otherwise provided in this Agreement and incorporated in the Contract Documents, the DP shall provide administration of the Agreement for Construction (between the Owner and Contractor) as set forth below, in Article 2, and in the Owner's "General Conditions" of the Construction Documents.

**A.2.7.3** The DP shall be a representative of and consult with the Owner during the Construction Phase. The DP shall have the authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument.

**A.2.7.4** The DP shall at all reasonable times have access to the Work at all stages of preparation or progress.

### **A.2.7.5 Professional Inspection**

**A.2.7.5.1** The DP or the DP's authorized representative shall perform Professional Inspection. For purposes of this Agreement, "Professional Inspection" means the periodic examination of all elements of the construction project to reasonably ensure that they meet the performance and design features and the technical and functional requirements of the contract documents.

**A.2.7.5.2** The DP's shall ensure that all Professional Inspection services are performed by or under the direct supervision of the appropriate Design Professional in accordance with the requirements of the Texas Board of Architectural Examiners and/or the Texas Engineering Practice Act, as applicable.

### **A.2.7.6 Professional Inspection: Related Services**

**A.2.7.6.1** The duties of the DP or the DP's authorized representative shall include, but shall not be limited to, all services described below.

**A.2.7.6.1.1** The DP shall assist the Owner in obtaining proposals from contractors and in awarding and preparing construction contracts;

**A.2.7.6.1.2** The DP shall be responsible for interpretation of the contract documents and changes made to the contract documents;

**A.2.7.6.1.3** The DP shall render design interpretations necessary for the proper execution or progress of the Work with reasonable promptness upon request of either the Owner or the Contractor, and shall render written interpretations within a reasonable time on all claims, disputes and other matters in questions relating to the design interpretation of the Contract Documents. Interpretations by the DP shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in written or graphic form. The DP's interpretations shall be final if consistent with the intent of the Contract Documents. For reasonable promptness the DP shall be allowed the following duration:

1) respond to RFQ	7 days
2) prepare CPR	10 days
3) evaluate and respond to PCR	10 days
4) review Change Order and associated documents	10 days

Prior to the expiration of the allowed duration, if additional time is needed to provide the required professional service the DP shall give written notice to the Owner and the Contractor to identify the need for additional time and to establish a suitable/acceptable duration for the specific task.

**A.2.7.6.1.4** The DP shall check and approve samples, mock-ups, schedules, shop drawings, product data and other submissions only for conformance with the design concept of the project and for compliance with the information in the contract documents. The DP will assist the Owner in review and approval of the Contractor-prepared submittal schedule(s). The DP will review Contractor submittals against the current approved submittal schedule to verify that the submittal was submitted/received in a timely/orderly manner. The DP shall notify the Owner and the Contractor when submittals are delinquent and/or out of sequence according to the schedule. The DP shall promptly review and approve or take other appropriate action upon Contractor's submittals. The DP shall return original submittals to the contractor within thirty (30) calendar days from the date of receipt. The DP shall return resubmittals within fourteen (14) calendar days from the date of receipt. If the contractor's submittal is not sufficiently complete for the DP to review and take action, the DP shall return the submittal as rejected. The DP will review all submittals within five (5) days of receipt of the submittal to determine the completeness of the submission. If the submittal is incomplete or otherwise lacking sufficient information to review, the DP shall return the submittal to the Contractor stating the reason for the return and requesting that the submittal be re-submitted. The DP shall not use terms such as "approved as noted" or any approval that requires any modification to the submittal that is not corrected and re-submitted to the DP.

**A.2.7.6.1.5** The DP shall approve or disapprove all change order requests, and justify all proposed contingency expenditures in terms of the Project requirements. The DP shall assist the Owner in preparing Change Orders involving design matters for the Owner's approval and execution in accordance with the Contract Documents and shall have the authority to order minor changes in the Work which do not involve an adjustment in the Contract Sum or an extension of the Contract Time, and which are not inconsistent with the intent of the Contract Documents. The DP shall also provide in writing the DP's opinion as to why the change order is necessary, an evaluation of the proposed cost, and an evaluation of Contract Time adjustment.

**A.2.7.6.1.6** After receipt by DP from the Owner of all warranties and related documents required by the Contract Documents as assembled and submitted by the Contractor to the Owner, DP shall review the warranties and related documents for compliance with the Contract Documents and forward to the Owner DP's written review.

**A.2.7.6.1.7** The DP shall make periodic visits to the project site to become generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the contract documents (See A.2.5.4.1). On-site Inspection of Project construction is required while critical construction activity is being accomplished (concrete placement, pier drilling, etc.) and at completion of critical phases (earthwork, re-steel placement, steel erection, etc. appropriate to the phase of the work). On projects where the Owner requires a full-time Project Construction Inspector to provide Detailed Inspection, or employs a General Inspector, the DP shall coordinate his On-Site Inspections with the Owner representative(s); however, this shall not diminish the DP's responsibilities to properly and periodically inspect the work in progress, to follow established procedures in the handling of submittals, applications for payment, change orders, etc., or the contractor's requests for information, clarification or assistance.

**A.2.7.6.1.7.1** The amount of time that the DP has agreed to provide, as part of basic services, for On-Site Inspections as described in this article shall be identified in Exhibit B and as necessary in each Service Authorization. The identified time shall be expressed as the number of hours to be devoted to On-Site Inspections, Project conferences with the contractor and others, and related travel to and from those On-Site Inspections and Project conferences. The number of hours to be devoted to On-Site Inspection and related travel shall include the time the DP spends assisting the Owner in performing the following: the Pre-Final Inspection, the Final Inspection, and Acceptance. If the Owner requires On-Site Inspections, Project

conferences and related travel in excess of this computed time, such time shall be deemed Additional Services/Reimbursable Expenses.

**A.2.7.6.1.7.2** Reserved.

**A.2.7.6.1.7.3** The DP shall attend and participate in Project Review Meetings which will be held on a regularly scheduled monthly basis throughout the construction phase, (unless more frequent meetings are necessitated under certain circumstances) at the time and place (probably project site) established by the Owner. The time required for these meetings shall be applied as a part of the computed number of hours of On-Site Inspection/Project conference time/related travel described above. More than one Project Review Meeting per calendar month shall be considered Additional Services/Reimbursable Expenses. As a part of the Project Review Meeting, the DP shall review the Contractor's Project Record drawings in conjunction with the review of the Contractor's payment request. Additionally, the DP shall also document the status of the various required Contractor submittals and verify that the submittals are being provided to the DP per the requirements of the Contract Documents and the Contractors Submittal Schedule. The DP shall provide to the Owner a copy of the DP's submittal log and provide an explanation and anticipated DP action for any submittal which has not been processed by the DP within the required duration.

**A.2.7.6.1.7.4** All Professional Inspection and services related to Professional Inspection listed under Articles A.2.7.5 and A.2.7.6 are included in the Basic Services to be provided under this Agreement. If a private Design Professional is retained, the fee paid that Design Professional is considered to cover Professional Inspection but not the additional cost of Detailed Inspection beyond the administrative duties as specifically described in this article. If the Owner requires Detailed Inspection of a project's construction, the DP shall select, subject to the Owner's approval, the Project Construction Inspector and shall be responsible for the proper administration of the Detailed Inspection work. All costs associated with Detailed Inspection services shall be Additional Services/Reimbursable Expenses. On a project for which a Project Construction Inspector is employed by the DP, and the owner employs a General Inspector, the General Inspector shall work with and through the Project Construction Inspector and the DP. On all other projects, the General Inspector shall work with and through the DP and shall exercise the Detailed Inspection functions the Owner requires.

**A.2.7.6.1.8** The DP shall make a written inspection report after each visit to the project site and send a copy of the report to the Contractor and the Owner.

**A.2.7.6.1.9** The DP shall keep the Owner informed of the progress and quality of the work and endeavor to guard against defects and deficiencies in contractor's work. The DP shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, for the acts or omissions of the Contractor, Subcontractors or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents. The DP shall note, to the best of the DP's knowledge, information and belief, the Contractor's failure to carry out the Work in accordance with the Contract Documents and shall immediately give written notice to the Owner of any such failure. The DP shall not be liable for defects in construction. The DP shall make recommendations to the Owner regarding rejection of Work which does not conform to the Contract Documents. Whenever, in the DP's reasonable opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the DP shall make recommendations to the Owner concerning special inspections and testing of the Work in accordance with the provision of the Contract Documents, whether or not such Work be then fabricated, installed or completed.

**A.2.7.6.1.10** The DP shall assist the Owner in determining the amounts owing to the Contractor based on observations at the site and on evaluations of the Contractor's Application for Payment and shall assist the Owner in issuing Certificates of Payment, but the DP shall not be responsible for preparing any documents in the payment process. Assistance of the DP to the Owner in the issuance of a Certificate of Payment shall constitute a representation by the DP to the Owner, based on the DP's observations at the site and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated; that the DP has ascertained to the best of the DP's knowledge, information and belief, that the quality of the Work is in accordance with the contract documents (subject to the results of any subsequent tests or evaluations required by or performed under the Contract Documents, to minor

deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Certificate of Payment); and that the Contractor is entitled to payment in the amount certified by the DP. However, the issuance of a Certificate for Payment shall not be a representation that the DP has made any examination to ascertain how and for what purpose the Contractor has used the moneys paid on account of the Contract Sum.

**A.2.7.6.1.11** The DP shall assist the Owner in performing the following: inspections to determine the Date(s) of Beneficial Occupancy (should the Owner wish to use or occupy the Work or portion thereof prior to final completion), the Pre-Final Inspection, the Final Inspection, and Acceptance of the Work. The extent of these DP services is further described in the Owner's "General Conditions" of the Construction Documents. Inspection required for Beneficial Occupancy is considered an Additional Service/Reimbursable Expense as set forth in paragraphs 3.1.2.21 and 7.1.1 of the Agreement.

**A.2.7.6.1.11.1** The Owner is responsible for directing final payment for work done on each project. If upon Final Inspection of a project, the Owner determines that the plans, specifications, contract, or change orders for the project have not been fully complied with, the Owner shall, until compliance has occurred or adjustments satisfactory to the Owner have been made, refuse to direct final payment.

**A.2.7.6.1.11.2** Final Inspection consists of an On-Site Inspection by the DP, the Owner's representative, a using agency representative, and at least one representative of each contractor.

**A.2.7.6.1.11.3** The Owner shall schedule the Final Inspection not later than the 10<sup>th</sup> day after the date the DP notifies the Owner that the contract has been performed according to the plans and specifications.

### **A.3 DESIGN AND CONSTRUCTION DOCUMENTS TO BE PROVIDED**

**A.3.1** The DP shall provide the Owner with five (3) copies of submittals required during the Programming Phase in addition to the requirements of Article 2.

**A.3.2** The DP shall provide the Owner with five (3) copies of submittals required during the Schematic Design Phase in addition to the requirements of Article 2.

**A.3.3** The DP shall provide to the Owner five (3) copies of the submittals required during the Design Development Phase in addition to the requirements of Article 2.

**A.3.4** The DP shall provide the owner five (3) full-size copies of the Construction Documents, including five (5) copies of the Project Manual when approximately seventy percent (70%) complete in addition the requirements of Article 2.

**A.3.5** The DP shall provide the Owner five (3) full-size copies of the Construction Documents, including five (5) copies of the Project Manual when substantially complete in addition to the requirements of Article 2.

**A.3.6** The DP shall provide a Final Review set of the Construction Documents including the Project Manual when complete.

**A.3.7** The DP shall provide to the Owner five (3) full-size copies of the Construction Documents, including five (5) copies of the Project Manual after all Owner Review comments have been incorporated in addition to the requirements of Article 2.

**A.3.8** The DP shall provide to the Owner five (3) full-size copies of Construction Documents including five (5) copies of the Project Manual when released for bid in addition to the requirements of Article 2.

**A.3.9** The DP shall provide to the Owner five (3) copies of all Addenda during the Bidding and Award Phase in addition to the requirements of Article 2.

**A.3.10** Upon award of the Construction Agreement, the DP shall provide to the Owner five (5) copies of ½ size Construction Documents (or a size to be approved by Owner), including five (5) sets of the Project Manual. These documents shall be clearly marked “Not for Construction”, and shall be posted by the DP to reflect all addenda issued prior to award.

#### **A.4 COMMUNICATIONS**

**A.4.1** Communications between DP and Owner shall occur in one of two forms, formal or informal. Both forms are necessary to accomplish the tasks required. All communication between Owner and the DP flows through their single respective “point of contact” (POC). Each party’s POC may designate secondary points of contact for specific issues to facilitate the flow of technical information. Use formal communication to issue or respond to design directives, submittal approvals or review comments, to record significant milestones in the project including minutes of formal meetings, and to document all decisions that affect the scope or quality of DP services or the construction contract. Formal communication shall always be in a typed form and signed or released by the originating POC. Informal communications may be verbal or handwritten and include telephone conversations, unsigned notes, personal meeting notes and the conveyance of existing documents or reports. Use informal communication to discuss specified requirements and clarify existing criteria. Informal communication shall not establish new requirements, circumvent established authorities or written directions, or in any way obligate the State of Texas. Document all communication in accordance with the following:

**A.4.1.1 Conference Call and Telephone Call Records:** Provide copies within three business days if of a time sensitive nature, or every month otherwise.

**A.4.1.2 User Interview and Discussion Notes:** Provide copies with the next regularly scheduled design submittal.

**A.4.1.3 Transmittal:** Provide with each transfer of existing documents or information to Owner.

**A.4.1.4 Conference Minutes:** Provide formal meeting minutes within five (5) calendar days following each review conference. During the Construction Phase, the DP will provide meeting minutes within five (5) calendar days following each meeting, using such means as directed by TJJD.

## EXHIBIT B

### INDEFINITE DELIVERY INDEFINITE QUANTITY (IDIQ) AGREEMENT FOR PROFESSIONAL SERVICES

Pursuant to authority granted in the Professional Services Procurement Act, Texas Government Code (TGC), Chapter 2254, this IDIQ Agreement is made and effective **(Month and date, year)** and entered into by and between the Texas Juvenile Justice Department (hereinafter referred to as "TJJD" or "Owner"), a Texas state agency, and [insert company name] (hereinafter referred to as "Design Professional" or "DP"), located at [insert address, city, state, zip].

Wherein, TJJD may, but is not obligated to, from time to time engage the professional services of the DP for one or more specific projects and identify the particular professional services needed therefor through an Assignment.

For the consideration set forth, the TJJD and DP enter into this Agreement described herein and further detailed in the following Articles and Exhibits attached hereto and made a part hereof for all purposes.

#### Articles of this Agreement:

Article 1	DP's Responsibilities	Article 11	Disputes
Article 2	Basic Services	Article 12	Termination of Agreement
Article 3	Additional Services	Article 13	Miscellaneous Provisions
Article 4	The Owner's Responsibilities	Article 14	Successors and Assigns
Article 5	Construction Cost	Article 15	Conflict of Interest
Article 6	Direct Personnel Expense	Article 16	Basis of Compensation
Article 7	Reimbursable Expenses	Article 17	Extent of Agreement
Article 8	Payments to the DP	Article 18	Term
Article 9	DP's Accounting Records		
Article 10	Ownership of Documents		

#### Exhibits to this Agreement:

	Attachment A HUB Subcontracting Plan (HSP)
	Attachment B Execution of Submittal and Texas Family Code
	Attachment C Statement of Qualifications and Experience
	Attachment D Conflict of Interest Certification
Exhibit A	Project Description - Basic Services
Exhibit B	Indefinite Delivery Indefinite Quantity (IDIQ) Agreement for Professional Services
Exhibit C	Compensation for Basic Services/Applicable Statutory Fee Limitation/Fixed Limit of Construction Cost/On-Site Inspections
Exhibit D	Authorization and Compensation Additional Services, Reimbursable Expenses
Exhibit E	Project Schedule
Exhibit F	Professional Liability Insurance
Exhibit G	Format for Reporting Fees (Basic Services, Additional Services, Reimbursables)
Exhibit H	Design Requirements/Standards and Codes
Exhibit I	Outside Consultant (s)
Exhibit J	Standards of Conduct for Civilian Employees
Exhibit K	Design Professional's Release (Specimen)
Exhibit L	Record Drawing Requirements
Exhibit M	TJJD Guide for Delivery of Architectural/Engineering Services
Exhibit N	Hourly Rate Schedule for Billing
Exhibit O	Terms and Conditions

**ARTICLE 1**  
**DP's RESPONSIBILITIES**

**1.1** For each project-specific Assignment, the DP shall perform Basic and Additional Services as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. The DP shall provide Basic Services in accordance with Exhibits A and D.

**1.2** The DP shall obtain the Owner's written approval of each phase of Basic Services as described in Exhibit A before proceeding to the next phase.

**1.3** The DP shall provide documents to the Owner in accordance with Exhibits A, C, and D.

**1.4 Codes, Standards, Permits, and Approvals**

**1.4.1** The DP shall, in accordance with generally accepted standards of professional care, design the Project and develop documents in compliance with codes, standards, design requirements, and items identified in Exhibit G of this Agreement plus applicable local, state, and federal laws in effect at the date of this Agreement or at the time of the Project, if different. All documents shall bear all indicators of completeness of the work (such as professional seals) required by the Texas Board of Architectural Examiners and/or the Texas Engineering Practice Act, as applicable.

**1.4.2** The DP shall obtain for the Owner all applicable drawing and specification approvals from governmental authorities and governing bodies having jurisdiction over the design, construction and/or operation of the Project, as well as any public and private utilities that will be affected by the Project. DP shall also: (1) assist in the preparation of any related permit requests required by these governmental authorities and governing bodies; (2) submit such requests on behalf of the Owner, and (3) retrieve the resulting permits from these entities and return them to the Owner. Any permit fees which must be paid by the DP shall be reimbursed by the Owner. Exhibit G includes a listing of codes and standards which are typically applicable and which may require review/approval from governmental authorities and governing bodies having jurisdiction. This Exhibit is not intended to be a complete or exhaustive list.

**1.4.3** The DP shall not be responsible for securing building permits associated with a Project, or for any payments for such building permits, both of which are the responsibility of the Construction Contractor(s); however, any and all changes to the drawings and/or specifications which are required by these entities in order to obtain these approvals and secure these permits on behalf of the Owner are included in the Basic Services for each Project.

**1.5** The DP shall submit all billings promptly to the Owner in accordance with Article 8 of this Agreement.

**1.6 Staffing - Qualifications - Consultants**

**1.6.1** The Owner, as part of the evaluation criteria for the selection of the DP to provide the services covered by this Agreement, has relied upon information provided by the DP pertaining to staffing and qualifications of the DP or outside consultants required by the DP. If the staffing and qualifications change significantly from that indicated in the previously provided information, the DP shall disclose such change to the Owner before the execution of this Agreement or within ten (10) business days of discovering such change. Owner shall determine if the change will adversely affect the interest of Owner and/or its project schedule. Owner may require appropriate remedial action to resolve a change with adverse effect. Such remedial action could include cancellation of this Agreement.

**1.6.2** Any outside consultants required by the DP in connection with the services covered by this Agreement shall be limited to individuals or firms listed in Exhibit I. The DP shall obtain the Owner's written consent before making any additions to or substitutions for these consultants. Owner's consent shall not be unreasonably withheld.

**1.6.3** The DP shall ensure that the Architects, Interior Designers, Landscape Architects and Engineers of Record for the project(s) are properly licensed in the State of Texas and legally qualified to perform the specific functions required under their respective assignments in accordance with the requirements of the Texas Board of Architectural Examiners and/or the Texas Engineering Practice Act, as applicable.

**1.7 Insurance**

**1.7.1** The DP shall not commence Work under this Agreement until it has obtained all the insurance required hereunder and until certificates of such insurance have been filed with and accepted by the Owner. Insurance coverage shall provide for a thirty (30) day prior notice to Owner of cancellation or material change by endorsement to the policy coverage and/or limits. Acceptance of the insurance certificates by the Owner shall not relieve or decrease the liability of the DP.

**1.7.1.1** Unless otherwise provided, the DP shall provide and maintain, until the Work included in this Agreement is completed and accepted by the Owner, the minimum insurance coverage's that follow, provided that the limits of liability may be met in part by the use of umbrella or excess policies.

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Worker's Compensation	Statutory
Employer's Liability	
Bodily Injury by Accident	\$500,000 Ea. Accident
Bodily Injury by Disease	\$500,000 Ea. Employee
Bodily Injury by Disease	\$500,000 Policy Limit
Commercial General Liability (Combined Bodily Injury & Property Damage)	
	\$1,000,000 Aggregate
	\$1,000,000 Personal & Advertising Liability
	\$1,000,000 Each Occurrence
Comprehensive Automobile Liability	\$1,000,000 Combined Single Limit

**1.7.2 Professional Liability Insurance**

**1.7.2.1** The DP shall have and maintain in effect professional liability insurance in accordance with Exhibit E.

**1.7.3** The DP agrees to indemnify and hold harmless the Owner, as defined in Article 13, its officers and employees from any direct loss, cost, damage or liability from injury or death of any person including the DP or its employees, or any damage or destruction of any property to the extent caused by a negligent act, error or omission of the DP or from the DP's breach of this Agreement, if such loss, cost, damage, destruction or liability does not arise out of any modification of the drawings and specifications by the Owner or others without written verifications and adaptations by the DP. This indemnification shall not extend to include indirect or consequential damages.

**1.8 Participation by Historically Underutilized Businesses (HUB)**

The DP shall be required to make a good faith effort to award subcontracts to HUBs in accordance with Chapter 2161 of the Texas Government Code (TGC) and Title 34, Chapter 20, Subchapter D, §§20.281-85 of the Texas Administrative Code (TAC). Pursuant to the Texas Comptroller of Public Accounts (CPA) HUB Rules, TAC Section 20.284 and 20.285, the DP has been required to submit a HUB Subcontracting Plan (HSP) as part of the statement of qualifications. The DP's HUB Subcontracting Plan and required forms to be submitted are included as Attachment A.

The Engineer shall submit, to TJJD on a monthly basis (by the 5<sup>th</sup> day of the following month), the HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report (in Attachment A). An electronic version of the form may be completed online, printed, signed and submitted by email as an Adobe PDF attachment or faxed to (512) 490-7252, Attn: Danny Vasquez.

## **1.9 Hazardous Materials and Unforeseen, Concealed or Differing Site Conditions**

**1.9.1** The DP shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site(s), except as such is within the control of the DP as a result of an Additional Service authorization specifically issued to address a subsequently discovered condition (per Article 1.9) or a specific original Project Description Basic Services.

**1.9.2** The DP shall have no responsibility for the discovery or presence of unforeseen, concealed, or differing site conditions, except as such is within the control of the DP.

## **ARTICLE 2 BASIC SERVICES**

**2.1** The DP's Basic Services consist of the Work described in Exhibit A of this Agreement.

## **2.2 Duties, Responsibilities and Authorities**

**2.2.1** The extent of the duties, responsibilities, and authority of the DP as the Owner's representative as set forth herein shall not be modified or extended without written agreement between the Owner and the DP. Such written agreement may consist of the issuance and acknowledgment of a Service Authorization or an amendment to this Agreement.

**2.2.2** All professional duties in connection with each Project shall be performed by or under the direct supervision of the appropriate Design Professional in accordance with the requirements of the Texas Board of Architectural Examiners and/or the Texas Engineering Practice Act, as applicable.

## **2.3 Design and Construction Documents to be Provided**

**2.3.1** The DP shall furnish to the Owner the documents (Hardcopy and Electronic) identified in Exhibits A, C, D, and O.

## **ARTICLE 3 ADDITIONAL SERVICES**

**3.1** The Additional Services contained in Article 3 are not included in Basic Services, and are further defined in Article 3 and Exhibit C of this Agreement. The DP shall provide those specified and authorized Additional Services identified in this Agreement or subsequently authorized in writing by the Owner. If the DP is directed to do work that the DP feels is outside the Scope of Basic Services, the DP shall notify the Owner in writing immediately (prior to beginning work) and within twenty (20) days submit to the Owner a cost proposal for performing the work. If notification is not timely given and a cost proposal is not timely submitted, DP will perform the work at no additional cost to the Owner. The DP's

compensation for Additional Services shall be paid by the Owner as provided in Articles 3, 8, 9, 16, and Exhibit C of this Agreement.

### **3.1.1 Project Representation Beyond Basic Services**

**3.1.1.1** If the Owner and DP agree that more extensive representation at the site is required than is described in Exhibit A, the DP shall provide additional representation as the Owner deems necessary. The responsibilities of the DP's on-site project representative(s) will be in addition to the DP Basic Services described in Exhibit A.

**3.1.1.2** Such project representative(s) shall be selected, employed and directed by the DP, and the DP shall be compensated as mutually agreed between the Owner and the DP. The individual(s) selected to be project representative(s) are subject to approval by the Owner.

**3.1.1.3** Through the observations by such project representative, the DP shall endeavor to provide further protection for the Owner against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the DP as described in Exhibit A.

**3.1.1.4** Such additional project representation may include Detailed Inspection. "Detailed Inspection" means close, technical, on-site examination of materials, structure, and equipment and surveillance of the quality and methods of work, performed by one or more full-time personnel at the project site, to reasonably ensure that the project is accomplished in compliance with information in the contract documents and with good construction practices. The decision to require a Detailed Inspection is at the Owner's sole discretion. The Owner shall base its decision on the project's size and complexity. If the Owner requires Detailed Inspection of a project's construction, the Design Professional shall select, subject to the Owner's approval, a Project Construction Inspector to perform such Detailed Inspection and be responsible for the proper administration of the duties listed below. The Design Professional shall pay the salary of the Project Construction Inspector and shall be reimbursed for the salary costs and the overhead expenses directly applicable to the salary. Salary and overhead are per schedule in Exhibit P.

**3.1.1.4.1** The Project Construction Inspector shall:

- (1) become thoroughly conversant with the drawings, specifications, details, and general conditions for executing the work;
- (2) keep records of the work as required by the Design Professional and the Owner;
- (3) make reports to the Design Professional with copies to the Owner and the using agency as required by the Design Professional and the Owner;
- (4) maintain at the construction site copies of the records and reports required under (2) and (3), along with the plans, specifications, shop drawings, change orders, and correspondence dealing with the project;
- (5) endeavor to ensure that the contractor is fulfilling the requirements of the contract documents;
- (6) endeavor to ensure that all authorized changes are properly incorporated in the work and that a change is not made unless properly authorized;
- (7) notify the Design Professional if conditions encountered at the project vary from those anticipated by the contract documents, and comply with the Design Professional's directives in dealing with those conditions;
- (8) review shop drawings in relation to their adaptability to job conditions and advise the Design Professional in that regard;
- (9) endeavor to ensure that all materials and equipment incorporated into the Project comply with the Contract Documents;
- (10) ensure that accurate records are kept on the Contractor's Project Record Drawings of the principal elements of mechanical and electrical systems;

- (11) ensure that accurate records are kept of all underground utility installations at the project site, including existing installations uncovered in the process of construction, and that such records are incorporated into the Contractor's Project Record Drawings;
- (12) keep a daily written log of all significant happenings on the job, including the number of workers working each day and the weather conditions during the day;
- (13) observe and give prompt written notice to the construction contractor's representative and the Design Professional of noncompliance with contract documents on the part of the contractor's representative and notify the Design Professional and the Owner of a failure to take corrective measures promptly;
- (14) initiate, attend, and participate in progress meetings and inspections with the contractor;
- (15) review every contractor's invoice against the value of partially or fully completed work and the materials stored at the project site before the invoice is forwarded to the Design Professional and promptly notify the Design Professional of a discrepancy between the review of the work and the invoice; and
- (16) be responsible to the Design Professional for the proper administration of the duties listed in this section and comply with other instructions and assignments of the Design Professional.

**3.1.1.4.2** Any additional services requested by Owner for services for close, technical, on-site examination of materials, structure, and equipment and surveillance of the quality and methods of work, performed by one or more full time personnel at the project site, to reasonably ensure that the project is accomplished in compliance with information in the contract documents and with good construction practices, shall be provided by the DP if authorized in writing by the Owner and agreed to be performed by the DP.

### **3.1.2 Other Additional Services**

**3.1.2.1** Providing financial feasibility or other special studies.

**3.1.2.2** Preparing and providing site evaluations, environmental studies, special surveys or comparative studies of prospective sites. Included in these may be, but will not be limited to, such studies as wetland delineation for the United States Army Corps of Engineers, endangered species surveys for the United States Fish and Wildlife Service and the Texas Parks and Wildlife Department, or cultural resource surveys for the Texas Historical Commission. Other special studies may be deemed necessary as needs arise on projects.

**3.1.2.3** Providing Estimates of Probable Costs, Detailed Estimates of Construction Cost, analyses of owning and operating costs, detailed quantity surveys or inventories of material, equipment and labor.

**3.1.2.4** Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by the Owner.

**3.1.2.5** Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.

**3.1.2.6** Making revisions in Drawings, Specifications or other documents when such revisions are (1) inconsistent with approvals or instructions previously given, (2) required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents, or (3) due to other causes not solely within the control of the DP.

**3.1.2.7** Preparing drawings, specifications and supporting data and providing other services in connection with Change Orders, provided such Change Orders are required by causes not within the control of the DP.

**3.1.2.8** Making investigations, surveys, evaluations, inventories or detailed appraisals of existing facilities and services required in connection with construction performed by the Owner.

**3.1.2.9** Providing consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing services as may be required in connection with the replacement of such Work.

**3.1.2.10** Providing services made necessary by the default of the Contractor, or by major defects or deficiencies in the Work of the Contractor, or by construction problems created by causes not solely within the control of the DP, or by failure of performance of either the Owner or Contractor under the contract for construction.

**3.1.2.11** Preparing a set of record drawings and computer files as described in paragraph 2.3.1 showing changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the DP.

**3.1.2.12** Providing services after completion of the Construction Phase as defined in Exhibit A.

**3.1.2.13** Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding.

**3.1.2.14** Providing coordination services of Owner-requested consultants to provide services beyond Basic Services.

**3.1.2.15** Providing any other services not otherwise included in this Agreement, or not customarily furnished in accordance with generally accepted architectural/engineering practice.

**3.1.2.16** Providing analysis of the Owner's needs and programming the requirements of the Project.

**3.1.2.17** Providing renderings, models and mock-ups requested by the Owner.

**3.1.2.18** Providing Basic and/or Additional Services on an accelerated time schedule. The scope of this service includes the DP's costs for overtime wages of employees and consultants, inefficiencies in work sequence, and plotting/reproduction costs, all of which are directly attributable to an accelerated time schedule approved by the Owner.

**3.1.2.19** Providing services necessary to acquire, on the behalf of the Owner, the services of a registered professional surveyor when such services are deemed necessary by the Owner and the DP. Such services may include, but are not limited to: defining the scope of work, evaluating firms as necessary for DP to provide a recommendation to Owner for selection of a provider, review and recommendation of proposed fee, coordination of work, and supplying design-related information to the provider as necessary for provider to perform the work. The services of the registered professional surveyor shall be provided, on behalf of the Owner, as a Reimbursable Expense to the DP as further described in Article 7. The DP shall not be liable for the work performed by the provider. The DP shall be responsible for producing an adequate definition of the scope of work and the design information produced and provided by the DP to this provider.

**3.1.2.20** Providing services necessary to acquire, on the behalf of the Owner, the services of geotechnical engineers or other consultants when such services are deemed necessary by the Owner and the DP. Such services may include, but are not limited to: defining the scope of work, evaluating firms as necessary for DP to provide a recommendation to Owner for selection of a provider, review and recommendation of proposed fee, coordination of work, and supplying design-related information to the provider as necessary for provider to perform the work. The services of the geotechnical engineers or other consultants shall be provided, on behalf of the Owner, as a Reimbursable Expense to the DP as further described in Article 7. The DP shall not be liable for the work performed by the provider. The DP

shall be responsible for producing an adequate definition of the scope of work and the design information produced and provided by the DP to this provider.

**3.1.2.21** Providing services necessary to acquire, on the behalf of the Owner, the services of Asbestos Specialist or other consultants when such services are deemed necessary by the Owner and the DP. Such services may include, but are not limited to: defining the scope of work, evaluating firms as necessary for DP to provide a recommendation to Owner for selection of a provider, review and recommendation of proposed fee, coordination of work, and supplying design-related information to the provider as necessary for provider to perform the work. The services of the Asbestos Specialist or other consultants shall be provided, on behalf of the Owner, as a Reimbursable Expense to the DP as further described in Article 7. The DP shall not be liable for the work performed by the provider. The DP shall be responsible for producing an adequate definition of the scope of work and the design information produced and provided by the DP to this provider.

**3.1.2.22** Providing inspection services should the Owner require Beneficial Occupancy prior to completion of the work. The DP shall provide a thorough inspection of the Work and produce a written list of the observed deficiencies of all completed work as well as a list of all work which is not sufficiently complete for inspection. The Service itself will be compensated as an Additional Service while the associated expenses are to be compensated as a Reimbursable Expense.

**3.1.2.23** Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of the hazardous substances in any form.

**3.1.2.24** Providing services to review or evaluate construction contractors claim(s), provided said claim(s) are supported by causes not within the control of the DP.

**3.1.2.25** Providing services required because of significant changes in the Project requested by Owner, including, but not limited to, size, quality, complexity, the Owner's schedule, or the method of bidding or negotiating and contracting for construction, except for services required under Subparagraph 5.2.5.

**3.1.2.26** Providing Interior Graphic's (signage) package desired by Owner which exceeds that required by Codes, Governmental Regulations or Authorities Having Jurisdiction.

## **ARTICLE 4 THE OWNER'S RESPONSIBILITIES**

**4.1** The Owner reserves the right to review the DP's personnel assigned to each Project, and to remove any person from the Project, at the Owner's discretion. Notification of such an action by the Owner shall be made in writing.

**4.2** The Owner shall provide information regarding requirements for each Project which shall set forth the Owner's design objectives, schedule, constraints and criteria, including but not limited to any or all of the following: space requirements and relationships, flexibility, expandability, and site requirements.

**4.3** The Owner shall provide a budget for each Project which shall include contingencies for bidding, changes in the Work during construction, and other costs which are the responsibility of the Owner, including those described in this Article 4 and paragraph 5.1.2.

**4.4** The Owner shall examine documents submitted by the DP and shall render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the DP's Work.

**4.5** When required for the Project, the Owner shall furnish to the DP a survey and geotechnical information (as further described in 7.1.2 and 7.1.3), along with complete and accurate legal description of the site, indicating, as required, all existing easements and boundaries, and shall provide known

information on sewer, water, gas and electrical services. The correctness and accuracy of this information shall remain the responsibility of the Owner and its agents.

**4.6** The Owner shall furnish quality assurance testing, inspections, and reports as required by law or by the Contract Documents.

**4.7** The services, information, surveys and reports required by Paragraphs 4.5 and 4.6 shall be furnished at the Owner's expense.

**4.8** If the Owner observes or otherwise becomes aware of any fault or defect in the Project or any nonconformance with the Contract Documents, written notice thereof shall be given by the Owner to the DP.

**4.9** The Owner shall provide information, services, approvals and decisions required under this Agreement, as expeditiously as necessary for the orderly progress of the DP's services and of the Work.

**4.10** The Owner shall furnish to the DP copies of Owner's General Conditions, contract forms, bond forms, bidding information and instructions and prevailing wage rates for inclusion in the Bid Documents.

**4.11** The Owner shall provide (at the Project site) office space, office furniture, telephone services, utility services, computer hardware and software, clerical assistance, and other support services as the Owner deems necessary for the DP's project representative.

## **ARTICLE 5** **CONSTRUCTION COST**

### **5.1 Definition**

**5.1.1** The Construction Cost shall be the total cost to the Owner of all construction elements of the Project designed or specified by the DP.

**5.1.2** The Construction Cost shall include the cost of materials furnished by the Owner and incorporated into the Work designed by the DP and any equipment, which has been designed, specified or selected by the DP and approved by the Owner.

**5.1.3** Construction Cost does not include the compensation of the DP, the DP's consultants, the Owner's consultants, the cost of the land, rights-of-way, or other costs which are the responsibility of the Owner as provided in Article 4.

### **5.2 Responsibility for Construction Cost**

**5.2.1** Fixed Limit of Construction Cost shall be established in Exhibit B.

**5.2.2** Evaluations by the DP of the Fixed Limit of Construction Cost and Statements of Probable Construction Cost, as well as Detailed Estimates of Construction Cost (if any) prepared by the DP or its Consultants, represent the DP's best judgment as a Design Professional familiar with the construction industry. It is recognized, however, that neither the DP nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the DP cannot and does not warrant or represent those bids or negotiated prices will not vary from the Construction Cost proposed, established or approved by the Owner, if any.

**5.2.3** When a Fixed Limit of Construction Cost is established in Exhibit B, an estimate of the Construction Cost prepared in detailed form by an experienced estimator shall be furnished (as an Additional Service) by the DP during each Phase and prior to receipt of bids. If this estimate, at any

phase, exceeds the established limit, the Owner shall: (1) give written approval of an increase in such Fixed Limit; (2) if the Project is to be abandoned, terminate the Project in accordance with Article 8 or (3) cooperate in revising the Project scope and quality as required to reduce the Construction Cost. In the case of (3), the DP without additional charge to the Owner shall modify the documents as may be necessary to comply with the Fixed Limit of Construction Cost.

**5.2.4** If the Bidding or Negotiation Phase has not commenced within one (1) month after the DP receives Owner approval of the Construction Documents, any Project budget or Fixed Limit of Construction Cost shall be adjusted to reflect any change in the general level of prices in the construction industry between the date of submission of the Construction Documents to the Owner and the date on which proposals are sought.

**5.2.5** If the Fixed Limit of Construction Cost (adjusted as provided in Subparagraph 5.2.3) is exceeded by the lowest bona fide bid, the Owner shall: (1) give written approval of an increase in such fixed limit, (2) authorize rebidding or renegotiation of the Project within a reasonable time, (3) if the Project is to be abandoned, terminate the Project in accordance with Article 8, or (4) cooperate in revising the Project scope and quality as required to reduce the Construction Cost. In the case of (4) provided a Fixed Limit of Construction Cost or a mutually agreed construction budget has been established by the parties to this Agreement, the DP (without additional charge to the Owner) shall modify the construction documents as necessary to comply with the Fixed Limit. Having complied with the Fixed Limit, the DP shall be entitled to compensation for all services performed in accordance with this Agreement, whether or not the Construction phase is commenced.

## **ARTICLE 6 DIRECT PERSONNEL EXPENSE**

**6.1** Direct Personnel Expense for the purpose of this Agreement is defined as the basic hourly salary of all the DP's, or other consultants' personnel engaged in providing the Services multiplied by 1.36 to approximate the total cost including payroll taxes and benefits.

## **ARTICLE 7 REIMBURSABLE EXPENSES**

**7.1** Reimbursable Expenses are in addition to the DP's fee for Basic and Additional Services, and include actual expenditures made by the DP and the DP's employees and consultants in the interest of the Project for the expenses listed in Article 7 and Exhibit C of this Agreement. The DP shall be entitled to compensation for Reimbursable Expenses authorized in the Agreement or subsequently authorized in writing by the Owner. If the DP is directed to incur Reimbursable Expenses not authorized in this Agreement, the DP shall notify the Owner in writing immediately (prior to incurring expense), and within forty-five (45) days submit a cost proposal for the Reimbursable Expenses. If notification and cost proposal are not submitted and DP proceeds, then DP proceeds at no additional cost to the Owner. The DP's compensation for Reimbursable Expenses shall be paid by the Owner as provided in Article 16 and Exhibit C of this Agreement.

**7.1.1** In connection with Additional Services only, the Owner shall reimburse DP for expenses of transportation associated with the Project, travel expenses in connection with out-of-town travel, long distance communications, and fees paid for securing approval of authorities having jurisdiction over the Project.

**7.1.2** The Owner shall reimburse the DP for furnishing the services of a registered professional surveyor when such services are deemed necessary by the Owner and the DP. Such services may include, but are not limited to, providing a complete and accurate survey of the site, giving as required: grades and lines of streets and other physical improvements, both on and adjoining the site; boundaries and contours of the land; easements and rights-of-way; locations of trees; and information as to sewer, water, gas and electrical lines and services. The DP's contract with the surveyor shall provide that the

surveyor's services are being rendered for the TEXAS JUVENILE JUSTICE DEPARTMENT and the surveyor shall be liable to the TEXAS JUVENILE JUSTICE DEPARTMENT for any error or omission associated with the surveyor's work. The product(s) produced as a result of this reimbursable expense will be furnished by the Owner to the DP. The DP may rely upon and use this information for the design and engineering required for the project. The correctness and accuracy of this information shall remain the responsibility of the Owner and the registered professional surveyor.

**7.1.3** The Owner shall reimburse the DP for furnishing the services of geotechnical engineers or other consultants when the Owner and the DP deem such services necessary. Such services may include, but are not limited to, test borings, test pits, soil bearing values, percolation tests, tests for presence of radon gas, air and water pollution tests, ground corrosion and resistivity tests, including necessary operations for determining sub-soil, air and water conditions with reports and appropriate professional recommendations. The DP's contract with the geotechnical engineer or other consultants shall provide that the geotechnical engineer's or other consultant's services are being rendered for the TEXAS JUVENILE JUSTICE DEPARTMENT and the geotechnical engineer or other consultants shall be liable to the TEXAS JUVENILE JUSTICE DEPARTMENT for any error or omission associated with the geotechnical engineer or other consultants' work. The product(s) produced as a result of this reimbursable expense will be furnished by the Owner to the DP. The DP may rely upon and use this information for the design and engineering required for the project. The correctness and accuracy of this information shall remain the responsibility of the Owner and the geotechnical engineers or other consultants.

**7.1.4** The Owner shall reimburse the DP for furnishing the services of Asbestos Specialist or other consultants when the Owner and the DP deem such services necessary. Such services may include, but are not limited to, obtaining and testing of samples to determine the presence of asbestos containing material and develop reports and appropriate professional recommendations. The DP's contract with the Asbestos Specialist or other consultants shall provide that the Asbestos Specialist or other consultant's services are being rendered for the TEXAS JUVENILE JUSTICE DEPARTMENT and the Asbestos Specialist or other consultants shall be liable to the TEXAS JUVENILE JUSTICE DEPARTMENT for any error or omission associated with the Asbestos Specialist or other consultants' work. The product(s) produced as a result of this reimbursable expense will be furnished by the Owner to the DP. The DP may rely upon and use this information for the design and engineering required for the project. The correctness and accuracy of this information shall remain the responsibility of the Owner and the geotechnical engineers or other consultants.

**7.1.5** The Owner shall reimburse the DP for expenses of plotting, reproducing and mailing of Drawings, Specifications and other documents, excluding reproduction for the office use of the DP and the DP's consultants, and excluding reproductions at the end of each phase used for submissions to the Owner.

**7.1.6** The Owner shall reimburse the DP for expenses of data processing and photographic production techniques when used in connection with Additional Services.

**7.1.7** If authorized in advance by the Owner, the Owner shall reimburse the DP for expenses of overtime Work requiring higher than regular rates other than that proposed by DP to meet the design schedule as provided in Exhibit D.

**7.1.8** The Owner shall reimburse the DP for expenses of overnight delivery if authorized by Owner.

**ARTICLE 8**  
**PAYMENTS TO THE DP**

**8.1 Payments - General**

**8.1.1** The DP may submit progress invoices monthly during the performance of work under this Agreement. The DP shall submit billings for Basic Services, Additional Services and Reimbursable Expenses within 90 days after completion of the Work, according to specific instructions provided in Exhibit F.

**8.1.2** The DP's statement of services shall provide for separate tracking of authorized Basic Services, Additional Services and Reimbursable Expenses for the Project.

**8.1.3** Upon receipt of each invoice from the DP, the Owner shall:

- (1) approve the invoice as submitted;
- (2) make minor modifications or corrections and process the invoice as modified/corrected; or
- (3) return the invoice to the DP to be revised and resubmitted.

**8.1.4** Payments shall be made following presentation of the DP's approved statement of services completed when determined to be contractually due in accordance with this Agreement. The payments due hereunder will be made in accordance to the Prompt Payment Statute.

**8.1.5** The DP shall provide payment to each subconsultant and supplier within ten (10) calendar days after receiving payment from the Owner for amounts previously invoiced for services performed or materials furnished under this Agreement. All subcontract agreements shall contain payment provisions requiring payments to lower-tier subcontractors within ten (10) calendar days after the first-tier subcontractor receives payment from the DP. Interest on late payments is subject to the provisions of the Texas Government Code, Title 10, Chapter 2251, regarding payments to subcontractors.

**8.2 Payments for Basic Services**

**8.2.1** Invoices for Basic Services shall be based on the percentage of the services completed.

**8.3 Payments for Additional Services/Reimbursable Expenses**

**8.3.1** The DP may submit progress invoices monthly during the performance of Additional Services as defined in Article 3 and Exhibit C and for Reimbursable Expenses as defined in Article 7 and Exhibit C, based on the percentage of the services completed/expenses incurred. All billings for services performed by the Hourly Rate Schedule shall itemize personnel, hours and hourly rate. All billings for services performed on the basis of a multiple of Direct Personnel Expense shall itemize the basic hourly salary, multiplier used to determine the Direct Personnel Expense, and any other applicable multiplier. Payments shall be made following presentation of the DP's approved statement of services completed or expenses incurred when determined to be contractually due in accordance with this Agreement.

**8.4 Payment Withheld**

**8.4.1** No deductions shall be made from the DP's compensation because of penalty, liquidated damages, or other sums withheld from payments to contractors; however, amounts may be withheld from the DP's compensation on account of negligent acts or breaches of this Agreement by the DP. Deductions may be made from the DP's compensation as mutually agreed or as the DP is determined to be liable as per Article 11, or as indicated in Paragraphs 8.4.2, 8.4.3, 8.4.4 and 8.5.

**8.4.2 Review of Construction Change Orders**

**8.4.2.1** Necessary change orders shall be reviewed and documented in the project file. If it is determined that the change was necessitated by the error or omission of any contracted party, the TJJD shall hold such party financially responsible.

**8.4.2.2** Any change orders to the Construction Contract which are categorized by the Owner as possible errors or omissions issues shall be addressed under TJJD's current procedure for determination of possible actions to hold the appropriate contracted party financially responsible.

**8.4.2.3** Should the Owner determine that the Owner has been damaged by an error or omission on the part of the DP, the DP may fulfill his financial responsibilities by:

- (1) direct payment from DP to Owner;
- (2) payment from DP insurance provider to Owner;
- (3) the withholding of payments otherwise due to the DP and amendment of this Agreement to reflect this reduction of fees;
- (4) performance of remedial work by a third party acceptable to the Owner, at the expense of the DP;
- (5) acknowledgment by insurer of notice of potential claim not excluded by the policy; and
- (6) any combination of the above, or any other means approved by the Owner.

### **8.4.3 Final Payment**

**8.4.3.1** The Owner shall make final payment for services for each Project upon receipt of the DP's final invoice and a release of all claims against the Owner arising by virtue of that Project and/or the terms of this Agreement, by both the DP and all subconsultants other than those claims (in stated amounts) that the DP and/or subconsultants have specifically excepted from the operation of the release. A release may also be required of the assignee if the DP's claim to amounts payable under this agreement has been assigned. The DP shall complete the "Design Professional's Release" (Exhibit L) or other release form acceptable to Owner. For purposes of this Article, "subconsultant" means all first-tier subconsultants and material suppliers.

**8.4.3.2** The parties to this Agreement recognize that the total actual cost of this Project may not be capable of determination until the close of the Project. The Owner shall make a final determination of the total actual cost of a Project within ninety (90) days after receipt of the Contractor's Final Certificate of Payment. Based on this determination, the DP's fee may be subject to recalculation to bring the DP's fee for Basic Services within the applicable statutory fee limitation. If the fee paid to the DP for Basic Services is determined to be in excess of the statutory limitation, the DP shall reimburse the excess to the Owner within thirty (30) days of notification by the Owner that their fee is in excess of the statutory limitation. The DP shall not be liable for any interest or be subject to any penalty for having retained any excess fee. The Owner's final determination of the total actual cost of the Project shall be binding upon the parties and subject to correction only by the Owner. The Owner shall provide documentation to assess the accuracy of the Owner's statement of the total actual construction cost.

**8.4.4** For the purpose of computing compliance with applicable statutory fee limitation at any stage of the work prior to completion, Construction Cost shall be based upon one of the following sources with precedence in the order listed:

- (1) The original Construction Cost established by the Owner or DP.
- (2) The DP's latest Statement of Probable Construction Cost based on current area, volume or other unit costs.
- (3) Latest detailed estimate of Construction Cost prepared by an experienced estimator.
- (4) Average of the acceptable bona fide Contractor's Proposals received for any or all portions of the Project, excluding the high and low bid.

**8.4.4.1** Upon recalculation of the Construction Cost at any stage of the work, the Owner may adjust the fees to be in accordance with the applicable statutory fee limitation identified in Exhibit B.

**8.4.4.2** An adjustment in the DP's fees will be based on the construction bid of the lowest bona fide Bidder. Should the project be terminated or suspended prior to Bidding any adjustment to the DP's fees will be based on the most recent estimate of Probable Construction cost developed from the most recent design documents provided prior to the suspension or termination of the project(s).

## **8.5 Project Suspension or Termination**

**8.5.1** If, through no fault of the DP, a Project is terminated, abandoned or suspended in whole or in part for more than three months, the DP shall be compensated for all services performed and all Reimbursable Expenses incurred before receipt of written notice from the Owner of such abandonment, suspension or termination, except as explained in Art. 8.5.2.

**8.5.2** DP shall be compensated for such services and expenses provided that said termination, abandonment, or suspension is not:

- (1) due to the Project cost estimate (at any phase after the DP's initial estimate) exceeding the Fixed Limit of Construction Cost stated elsewhere in this Agreement; or
- (2) the result of failure to comply with the requirements of this Agreement, or of irregularities or errors in the Contract Documents prepared by the DP to the extent that the Owner is damaged by same.

## **ARTICLE 9 DP's ACCOUNTING RECORDS**

**9.1** Records of Reimbursable Expenses and expenses pertaining to Additional Services (other than those agreed to be a stipulated lump sum amount) and services performed on the basis of a Multiple of Direct Personnel Expense shall be kept on the basis of generally accepted accounting principles and shall be available to the Owner at mutually convenient times. Invoices for services performed on the basis of a multiple of Direct Personnel Expense shall itemize billable hours in categories of different general tasks.

**9.2** For Additional Services (other than those agreed to be a stipulated lump sum amount) and Reimbursable Expenses, documentation of services rendered or expenses incurred shall include source documents supported by independent sources and/or original entry support where applicable. In-house allocations of resources shall be supported and verifiable.

## **ARTICLE 10 OWNERSHIP OF DOCUMENTS**

**10.1** Owner and DP intend this Agreement to be an Agreement for services and each considers any and all products and results of such services to be rendered by DP hereunder to be a work made for hire. DP acknowledges and agrees that the products and results of the services (and all rights therein) belong to and shall be the sole and exclusive property of Owner. If for any reason the products and results of services rendered by the DP would not be considered a work-for-hire under applicable law, DP hereby assigns and agrees to assign to Owner all right, title and interest DP may have or at any time acquire in and to the products and results of services and all portions thereof, without royalty or any other consideration except as expressly set forth herein.

**10.2** The documents prepared by the DP, including any revisions, change orders and other modifications, shall become the property of the Owner and shall be provided to the Owner in the forms described. The DP shall be permitted to retain reproducible and electronic copies for his own files. Any

reuse of the documents by the Owner without written verifications or adaptation by the DP for the specific purpose intended shall be at the Owner's sole risk and without liability or legal exposure to the DP.

**10.3** The DP acknowledges and agrees that the Owner has the right to reuse or adapt the documents prepared by the DP pursuant to this Agreement. The DP further acknowledges and agrees that the Owner may engage one or more third party Design Professionals to complete, correct, revise or add to the work as may be required to reuse or adapt the documents prepared by the DP pursuant to this Agreement. Such completed, corrected, added to or revised documents shall have a seal affixed by and become the responsibility of the third-party Design Professionals.

## **ARTICLE 11** **DISPUTES**

**11.1** Except as otherwise provided in this Agreement, Owner and DP agree that complaints or disagreements that arise in the course of providing services under this Agreement shall be resolved at the lowest administrative level of both Owner and DP that is closest to the matter and, therefore, is in the best position to mutually resolve it. Any unresolved matter at that level after ten (10) working days will be referred to the next administrative level that is appropriate for each party (ten (10) working days is allowed for resolution at each consecutive level) until a mutually agreed upon resolution can be reached. A matter is satisfactorily resolved when Owner and DP mutually agree on the specific actions that will be taken with regard to the matter.

**11.1.1** The dispute resolution process provided for in Chapter 2260 of the Texas Government Code shall be used, as further described herein, by the TEXAS JUVENILE JUSTICE DEPARTMENT and the DP to attempt to resolve any claim for breach of contract made by the DP.

A. A DP's claims for breach of this Agreement 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, the DP shall submit written notice, as required by Subchapter B, to the Executive Director, or to the following designee as appropriate: Assistant Deputy Executive Director for Finance/Construction; Assistant Deputy Executive Director for Juvenile Corrections; Director of Business Services. 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 the TEXAS JUVENILE JUSTICE DEPARTMENT and the DP otherwise entitled to notice under the parties' Agreement. Compliance by the DP 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 DP's sole and exclusive process for seeking a remedy for any and all alleged breaches of Agreement by TEXAS JUVENILE JUSTICE DEPARTMENT 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 the TEXAS JUVENILE JUSTICE DEPARTMENT nor any other conduct of any representative of the TEXAS JUVENILE JUSTICE DEPARTMENT relating to the Agreement shall be considered a waiver of sovereign immunity to suit.

**11.1.2** At all times during the course of the dispute resolution process, the DP shall continue with the Work as directed, in a diligent manner, and without delay, shall conform to the Owner's directive, decision, or order, and shall be governed by all applicable provisions of the Agreement. Records of the Work shall be kept in sufficient detail to enable payment in accordance with applicable provisions in the Agreement, if this should become necessary.

**ARTICLE 12**  
**TERMINATION OF AGREEMENT**

**12.1** This Agreement may be terminated by either party upon not less than seven (7) days written notice, should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. The Owner may also temporarily suspend DP's performance under this Agreement at any time and from time to time, or upon mutual agreement redirect the Services. DP shall stop all Work on the date of notification or as otherwise stated in any notice to terminate the Services. Owner's only obligation for terminating or suspending the Services shall be the payment to DP of compensation for Services actually and satisfactorily performed hereunder, together with Reimbursable Expenses incurred up to the date of termination or suspension. DP shall be entitled to no other bonus, damage, settlement or compensation, for expected or lost profits or otherwise or any other compensation thereafter. If the Owner temporarily suspends the DP's performance of work for greater than ninety (90) days, DP may request adjustment to compensation.

**ARTICLE 13**  
**MISCELLANEOUS PROVISIONS**

**13.1** The Owner may employ an outside consultant to manage and direct the planning and/or the construction of the Project(s) encompassed in this Agreement. The term "Owner" includes the outside consultant(s), if employed.

**13.1.1** The Owner may employ an outside consultant to be a General Inspector to perform General Inspection. "General Inspection" means the examination and inspection of the project at periodic intervals by the Owner. On a project for which a Project Construction Inspector is employed by a Design Professional, the General Inspector shall work with and through the Project Construction Inspector and the Design Professional. On all other projects, the General Inspector shall work with and through the Design Professional and shall exercise the Detailed Inspection functions the Owner requires.

**13.1.2** The term "with and through" as used in paragraph 13.1.1 of this Agreement means periodically providing inspections, producing reports describing their findings from such inspections and distributing such reports to DP for review and necessary action. The DP is not liable for the recommendations, observations or any other action of the General Inspector.

**13.2** This Agreement shall be governed by the laws of the State of Texas and any action, whether at law or in equity shall be brought exclusively in the State Courts of Texas.

**13.3** A state sales tax exemption form may be obtained from the office of the State Comptroller. The Owner's understanding is that all labor and material for incorporation into the Work are exempt from State sales tax. The DP shall not include State sales tax for incorporated materials on any pay request submitted to the Owner. If adequate documentation is provided that the Comptroller's Office will not issue the exemption form, the Owner will reimburse the DP for Sales tax incurred.

**13.4** Duties and obligations imposed by this Agreement and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

**13.5** Failure to timely enforce, or the waiver of, any provision of this Agreement or any breach of performance by the Owner or DP shall not be deemed a waiver by either of the parties of the right in the future to demand strict compliance and performance of any provision of this Agreement. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto or of performance shall be deemed a waiver thereof in the future, nor shall any such waiver or waivers be deemed or construed to be waiver of subsequent breaches or defaults of any kind, character, or description, under any circumstances. Only duly-authorized officers or employees of the Owner or DP are authorized to

waive or modify any provision of this Agreement. All waivers or modifications of this Agreement shall be in writing.

**13.6** If any clause, provision, or section of this Agreement be held illegal, invalid, or unenforceable by any court, the illegality, invalidity, or unenforceability of each clause, provision, or section shall not affect any of the remaining clauses, provisions, or sections hereof, and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable clause, provision, or section had not been contained herein. In case any agreement or obligation contained in the Agreement be held to be in violation of law, then such agreement or obligation shall be deemed to be the agreement or obligation of the Owner and the DP, as the case may be, to the fullest extent permitted by law.

**13.7** DP shall not make any public information release in connection with services performed under this Agreement without advance written permission of Owner.

**13.8** DP, in executing this Agreement, shall provide complete and accurate information relating to the Texas Family Code, and certify compliance with this and all other statutory requirements shown in Exhibit M.

**13.9 Relationship of Parties** - The Design Professional shall, in its relationship with the Owner under this Agreement, be an independent contractor and shall be entitled to no benefits not specifically set out in the Agreement.

**13.10 Payment of Debt Owed to the State of Texas** - Any payment due to the DP under this Agreement will be applied toward any debt that is owed to the State of Texas, including but not limited to, delinquent taxes and child support.

**13.11 Right to Offset** - In the event the Owner determines that the DP owes money to TJJD under this Agreement, the Owner, upon providing the DP with its written notice to offset, shall have the right to withhold monies due the DP with respect to other contracts with TJJD and apply such monies to the money due TJJD with respect to this Agreement.

**13.12 Audit Clause** - DP understands that it and its subcontractors by accepting funds directly or indirectly under this contract are subject to the authority of the State Auditor or its successor entity to conduct audits or investigations pursuant to Chapter 2262 of the Texas Government Code. DP shall include a clause in its subcontracts providing that its subcontractors are subject to the authority of the State Auditor or its successor entity to conduct audits or investigations. Under the direction of the legislative audit committee, a DP 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. Failure to cooperate with the State Auditor may subject DP to criminal penalties.

**13.13 Terrorism Clause** - DP is not listed as a terrorist organization on the Specially Designated Nationals List.

**13.14 Legislative Contingency** - This Agreement is contingent upon the continued availability of lawful appropriations by the Texas Legislature.

#### **ARTICLE 14 SUCCESSORS AND ASSIGNS**

**14.1** The Owner and the DP each binds himself, his partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the DP shall assign, sublet or transfer his interest in this Agreement without the written consent of the other.

**ARTICLE 15**  
**CONFLICT OF INTEREST**

**15.1** No TEXAS JUVENILE JUSTICE DEPARTMENT (TJJJ) staff or Board Member shall have any conflict of interest or potential conflict of interest with the DP or any of its agents, including a financial interest, in this Agreement, either currently or within the past two (2) years. This is not to include interest unknown due to investments in retirement accounts and/or investments that regularly acquire new stocks or bonds not under the direct control of the staff or Board Members.

**15.2** DP covenants that DP has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of services required under this Agreement and that no person having any such interest shall be employed by DP. No DP owner or agent shall have any conflict of interest or potential conflict of interest, including a financial interest, with any TJJJ Staff, TJJJ Board Member, contractor, subcontractor, vendor or supplier affected by this Agreement either currently or within the past two (2) years. This is not to include interest unknown due to investments in retirement accounts and/or investments that regularly acquire new stocks or bonds not under the direct control of the DP or it's Agent's.

**15.3** No member or delegate to the Texas Legislature shall be admitted to any share or part of this Agreement, or to any benefit arising therefrom.

**15.4** The DP agrees that neither the DP nor its member companies nor their affiliated companies nor company principles nor their family members shall bid on or perform any direct construction work in connection with Projects in which the DP has participated in a design effort. The DP agrees that neither the DP nor its member companies nor their affiliated companies nor company principals nor their family members shall have any financial interest in a firm which bids on or performs any part of the construction work in connection with Projects in which the DP has participated in a design effort. The provisions of this Article are not intended to prevent the DP from performing follow-on professional services for others during subsequent phases of work at a particular site, but rather the DP is prohibited from activities which create conflicts of interest or apparent conflicts of interest as a result of work performed by the DP under this Agreement.

**15.5** The DP agrees to include language in all its subconsultant agreements stating that neither the subconsultant nor its member companies nor their affiliated companies nor company principals nor their family members shall bid on or perform any direct construction work in connection with Projects in which that subconsultant has participated in a design effort. The agreements must contain, among other things, a prohibition to preclude consultants, consultant firms and/or principals and family members from having any financial interest in a firm which bids on or performs any part of the construction work in connection with Projects in which that subconsultant has participated in a design effort. The provisions of this Article are not intended to prevent the subconsultant from performing follow-on professional services for others during subsequent phases of work at a particular site, but rather the subconsultant is prohibited from activities which create conflicts of interest or apparent conflicts of interest as a result of work performed by the DP or by its subconsultants under their agreements with the DP.

**15.6** Any such conflict or potential conflict of interest shall be disclosed to the Owner by the party having such conflict before the execution of this Agreement or within ten (10) days after discovering the conflict. Owner representatives not affected by the conflict or potential conflict shall determine the severity of the conflict, if any, and recommend the appropriate remedial action to resolve the conflict without adversely affecting the interest of the Owner and the project(s) schedule. Such remedial action could include cancellation of this Agreement for the conflicting party.

**ARTICLE 16**  
**BASIS OF COMPENSATION**

**16.0** The Owner shall compensate the DP according to the terms of this Agreement including all Exhibits. Compensation to the DP for Basic Services shall not exceed statutory fee limitations. Payments made to the DP for Additional Services as listed in Article 3 and for Reimbursable Expenses as listed in Article 7 shall not be included in the calculation of the DP's fee for the purpose of determining applicable statutory fee limitations as described in paragraph 8.4.3 and Exhibit B.

**16.1 Compensation for Basic Services**

**16.1.1** The Owner shall compensate the DP for the Scope of Basic Services as stipulated in Exhibit B of this Agreement.

**16.2 Compensation for Additional Services**

**16.2.1** For Additional Services of the DP, as described in Article 3, compensation for services rendered by employees shall be based on one of the following methods:

- (1) a multiple of (2.25) times the Direct Personnel Expense as defined in Article 6; or
- (2) a stipulated mutually agreed lump sum amount.

**16.2.2** For Additional Services of Owner-Requested Consultants, including but not limited to additional structural, civil, mechanical and electrical engineering services, compensation for services rendered shall be based on a multiple of **1.00** times the amounts billed to the DP for such services.

**16.2.3** All other compensation for Additional Services shall be reimbursed to the DP in accordance with Article 16 and Exhibit C.

**16.3 Compensation for Reimbursable Expenses**

**16.3.1** For Reimbursable Expenses as described in Article 7 and Exhibit C, compensation shall be based on a multiple of **1.00** times the amounts expended by the DP, the DP's employees and consultants in the interest of the Project. Said multiple shall be applied to the base amount, excluding State sales tax (if exempt by the Comptroller's Office as described in paragraph 13.3).

**16.3.2** The rate of reimbursement for ground transportation shall be as stated in Exhibit C.

**16.3.3** Reimbursement for living expenses shall include the actual cost of lodging, not to exceed eighty dollars (\$X.XX) plus applicable taxes per day per person, and actual cost for meals, not to exceed thirty dollars (\$X.XX) per day per person to be reimbursed at a rate of \$X.XX for breakfast, \$X.XX for lunch and \$X.XX for dinner. Gratuities of any kind are not reimbursable.

**16.4 Invoices**

**16.4.1** All invoices for Basic Services, Additional Services, and Reimbursable Expenses shall be summarized in the format prescribed in Exhibit F and in accordance with the requirements of Article 8.

**16.4.2** The provisions of Chapter 2251 of the Texas Government Code apply to payments under this Agreement.

**ARTICLE 17**  
**EXTENT OF AGREEMENT**

**17.1** This Agreement (including all attached Exhibits as identified on the first page of this Agreement) represents the entire and integrated agreement between the Owner and the Design Professional, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be changed only by written instrument signed by both Owner and Design Professional.



## EXHIBIT C

### COMPENSATION FOR BASIC SERVICES APPLICABLE STATUTORY FEE LIMITATION AGREED UPON FEE PERCENTAGE FIXED LIMIT OF CONSTRUCTION COST ON-SITE INSPECTIONS

#### B.1 COMPENSATION FOR BASIC SERVICES

**B.1.1** For authorized Basic Services, as described in Article 2 of the agreement and Exhibit A, the Owner shall pay the Design Professional total compensation for the project in an amount equal to \$XX.xx (X.xx%) of the fixed Limit of Construction Cost or, if constructed, the Construction Cost. Construction Cost, which shall be determined by TJJD, will be based on the total sum paid to the General Contractor and the cost of Owner furnished items installed by the General Contractor. In the event the Construction Cost of the project is more than the Fixed Limit of Construction Cost, and the Owner gives written approval of such increase, then the compensation for Basic Service shall be computed at the Agreed Upon Fee Percentage times such Construction Cost of the Project.

**B.1.2** Progress payments to the Design Professional for Basic Services shall be made according to Articles 8 and 16 of the Agreement in proportion to the services performed in accordance with the schedule of values for each phase of the project as follows:

AUTHORIZED COMPENSATION FOR BASIC SERVICES						PROJECT: Repair and Renovate AI Price, Corsicana, Ron Jackson Crockett						
%	Program	%	Schematic Design	%	Design Development	%	Construction Documents	%	Bid Award	%	Construction Admin.	Grand Total
0		0		0		0		0		0		

**B.1.3** All Design Professional compensation for any authorized construction change order shall not exceed the Agreed Upon Fee Percentage, for the project, as shown in paragraph B.3.

#### B.2 APPLICABLE STATUTORY FEE LIMITATION

The fees to be paid as compensation for Basic Services, based on the total Project Construction Cost of the work, shall not exceed any Applicable Statutory Fee Limitation, if any, and in no case a percentage amount of XX.xx%. These percentage amounts were determined by the Owner during Agreement negotiations as the Applicable Fee Limitation. Fees, if any, to be paid for the Programming Phase shall not be included in the applicable statutory fee limitations if any.

#### B.3 AGREED UPON FEE PERCENTAGE

During Agreement negotiation, the Design Professional and Owner have established the percentage amount of XX.xx% to be the Agreed Upon Fee Percentage. The Agreed upon Fee Percentage will be used to compute Compensation for Basic Service.

#### B.4 FIXED LIMIT OF CONSTRUCTION COST

The Fixed Limit of Construction Cost for the project shall be \$XX.xx.

#### B.5 ON-SITE INSPECTION

The number of hours to be provided by the DP as part of Basic Services for On-Site Inspections, Project conferences, and related travel (as further described in Exhibit A Article A.2.7) shall be hours. On a monthly basis the DP will submit a detailed invoice listing the name(s) of the personnel and the hours devoted to "on site" inspections for that month. The invoice will also reflect the total number of hours

provided for "on site" inspections, the total number of hours spent to date for "on site" inspections and the total number of hours remaining for "on site" inspections.

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## EXHIBIT D

### AUTHORIZATION AND COMPENSATION FOR ADDITIONAL SERVICE (S) AND REIMBURSABLE EXPENSE (S)

#### C1. AUTHORIZATION AND COMPENSATION FOR ADDITIONAL SERVICE (S)

The following Additional Service(s) have been deemed necessary and have been authorized by the Owner and will be provided by the Design Professional. The Design Professional shall receive compensation for the authorized Additional Service(s) as identified in Articles 3, 8, 9, 16 of the Agreement and Exhibit C. The Design Professional shall use the number(s) provided herein for each authorized service as the assigned reference number in statements of service submitted to the Owner. Compensation for the items identified as "Not to Exceed" in this Exhibit will be based on the multiple of Direct personnel Expenses as identified in Paragraph 16.2.1 (Method 1) of the Agreement.

**C1-AS-1** Provide coordination services necessary for the Owner requested services of an experienced estimator for the stipulated lump sum amount of \_\_\_\_\_.

**C1-AS-2** Provide coordination services necessary for the Owner requested services of a surveyor for the stipulated lump sum amount of \_\_\_\_\_.

**C1-AS-3** Provide coordination services necessary for the Owner requested services of geotechnical engineer for the stipulated lump sum amount of \_\_\_\_\_ dollars.

**C1-AS-4** Provide the services necessary to produce and supply the Owner "As-Built" documents as further described in Paragraph 3.1.2.11 of the Agreement and Exhibit M for the "Not to Exceed" amount of \_\_\_\_\_ dollars.

**C1-AS-5** Not used.

**C1-AS-6** Not used.)

**C1-AS-7** Not used.

**C1-AS-8** The DP shall provide, \_\_\_\_\_ additional hours devoted to Site Inspections, Project conferences, and related travel. The scope of these services is further described in Exhibit A, Article A.2.7. These hours are in addition to the number of hours to be provided as part of Basic Services identified in Exhibit B. These services shall be provided for the "Not to Exceed" amount of \_\_\_\_\_ dollars, which will include travel related expenses. On a monthly basis DP will submit a detailed invoice listing the name(s) of the personnel and the hours devoted to additional service "on site" inspections for that month. The invoice will also reflect the total number of hours provided for additional service "on site" inspections, the hours spent as of the invoice date for additional service "on site" inspections and the total number of hours remaining for additional service "on site" inspections.

**C1-AS-9** Not used.

#### C2. AUTHORIZATION AND COMPENSATION FOR REIMBURSABLE EXPENSE (S)

The following Reimbursable Expense(s) have been deemed necessary and have been authorized by the Owner. The DP shall provide and shall receive compensation for Reimbursable Expenses as identified in Articles 7, 8, 9, 16, of the Agreement and Exhibit-C. The DP shall use the number(s)

provided herein for each Reimbursable Expense(s) as the assigned reference number in statements of service submitted to the Owner.

**C2-RE-1** Provide services of an experienced estimator, and the reproduction and distribution of estimating documents for each project as further described in Paragraphs 3.1.2.3 and 5.2.3 of the Agreement for the “Not to Exceed” amount of \_\_\_\_\_ ( \$ \_\_\_\_\_ ) dollars.

**C2-RE-2** Furnish the services of a registered professional surveyor for each project as further described in Paragraph 7.1.2 of the Agreement for the estimated “Not to Exceed” amount of \_\_\_\_\_ ( \$ \_\_\_\_\_ ) dollars. The estimated “Not to Exceed” amount has been established based upon the information available at this time. Should the actual amount be greater than herein authorized the DP shall notify the Owner in writing immediately (prior to incurring expense) as further described in Paragraph 7.1 of the Agreement. The Owner shall provide additional written authorization for approved amounts greater then herein authorized.

**C2-RE-3** Furnish the services of geotechnical engineers as further described in Paragraph 7.1.3 of the Agreement for the estimated “Not to Exceed” amount of \_\_\_\_\_ ( \$ \_\_\_\_\_ )dollars. This estimated “Not to Exceed” amount has been established based upon the information available at this time. Should the actual amount be greater than herein authorized the DP shall notify the Owner in writing immediately (prior to incurring expense) as further described in Paragraph 7.1 of the Agreement. The Owner shall provide additional written authorization for approved amounts greater than herein authorized.

**C2-RE-4** Expense of plotting, reproducing and mailing documents as further described in Paragraph 7.1.4 of the Agreement for the estimated “Not to exceed” amount of \_\_\_\_\_ Thousand ( \$ \_\_\_\_\_ ) dollars. This estimated “Not to Exceed” amount has been established upon the information available at this time. Should the actual amounts be greater than herein authorized the DP shall notify the Owner in writing immediately (prior to incurring expense) as further described in Paragraph 7.1 of the Agreement. The Owner shall provide additional written authorization for approved amounts greater than herein authorized.

**C-RE-5** Provide services of Owner requested participants and their travel/lodging/living expenses associated with the partnering workshop as further described in Paragraph A.2.7.4 of Exhibit A for the estimated “Not to Exceed” amount of \_\_\_\_\_ ( \$ \_\_\_\_\_ ) dollars. This estimated “Not to Exceed” amount has been established based upon the information available at this time. Should the actual amount be greater than herein authorized the DP shall notify the Owner in writing immediately (prior to incurring expense) as further described in Paragraph 7.1 of the Agreement. The Owner shall provide additional written authorization for approved amounts greater then herein authorized.

**C2-RE-6** Expense of overnight delivery during the Construction Phase for expediting appropriate action upon Contractor’s submittals, design interpretation of the Contract Documents, changes to the Contract Documents, and close-out/acceptance of the Project of the estimated “Not to Exceed” amount of \_\_\_\_\_ ( \$ \_\_\_\_\_ ) dollars. This estimated “Not to Exceed” amount has been established based upon the information available at this time. Should the actual amount be greater than herein authorized the DP shall notify the Owner in writing immediately (prior to incurring expense) as further described in Paragraph 7.1 of the Agreement. The Owner shall provide additional written authorization for approved amounts greater than herein authorized.

**C2-RE-7** Furnish the services of the geotechnical engineer(s), who provided the geotechnical testing and resulting reports/professional recommendation requested above in C2-RE-3, to review the DP’s documents for compliance with the intent of the geotechnical engineers professional recommendations. The geotechnical engineer shall review the DP’s documents before the completion of the Design Development Phase, at Substantial Completion of the Construction Documents, and after all Owner Review comments have been incorporated. The geotechnical

engineer shall provide documentation to the Owner that the review has been performed and whether or not the DP's documents comply with the intent of the geotechnical engineers' professional recommendations. These services shall be provided for the estimated "Not to Exceed" amount of \_\_\_\_\_ (\$ \_\_\_\_\_) dollars. This estimated "Not to Exceed" amount has been established based upon the information available at this time. Should the actual amount be greater than herein authorized the DP shall notify the Owner in writing immediately (prior to incurring expense) as further described in Paragraph 7.1 of the agreement. The Owner shall provide additional written authorization for approved amounts greater than herein authorized.

**C2-RE-8** Not Used.

**C2-RE-9** Furnish the services of the geotechnical engineer(s), who provide the geotechnical testing and resulting reports/professional recommendations requested above in C2-RE-3, to make up to three one-day site visits during construction to confirm soils and conditions encountered where relevant to geotechnical engineering professional recommendations. After each site visit the geotechnical engineer shall provide documentation to the Owner that identifies the soils and condition's encountered and whether or not the construction observed complies with the intent of the geotechnical engineer's professional recommendations. These services shall be provided for the estimated "Not to Exceed" amount of \_\_\_\_\_ (\$ \_\_\_\_\_) dollars. This estimated "Not to Exceed" amount has been established based upon the information available at this time. Should the actual amount be greater than herein authorized the DP shall notify the Owner in writing immediately (prior to incurring expense) as further described in Paragraph 7.1 of the Agreement. The Owner shall provide written authorization for approved amounts greater than herein authorized.

**C2-RE-10** The DP shall be reimbursed for fees associated with obtaining approval of authorities having jurisdiction of the project as further described in paragraph 7.1.1 of Agreement. . These services shall be provided for the estimated "Not to Exceed" amount of \_\_\_\_\_ (\$ \_\_\_\_\_) dollars. This estimated "Not to Exceed" amount has been established based upon the information available at this time. Should the actual amount be greater than herein authorized the DP shall notify the Owner in writing immediately (prior to incurring expense) as further described in Paragraph 7.1 of the agreement. The Owner shall provide additional written authorization for approved amounts greater than herein authorized.

### **C.3 AUDIT CRITERIA FOR REIMBURSABLE EXPENSES**

All reimbursable expenses shall be invoiced in accordance with the table of audit criteria shown in Table C.5 of this Exhibit.

**REIMBURSABLE EXPENSES ALLOWED FOR CONSULTANTS**

**Table C.5**

<b>Audit Criteria</b>	<b>Accepted/ Allowed</b>	<b>Unacceptable/ Disallowed</b>	<b>Notes</b>
Meals - No receipts required (\$XX.xx/day) Tips & gratuities	Allowed	Disallowed	
Laundry		Disallowed	
Tolls & Parking - Receipts required	Allowed		
Hotels - Receipts required (\$XX.xx/night) Taxes on \$XX.xx	Allowed Allowed		
Alcoholic beverages		Disallowed	
Vehicle usage (\$XX.xx/mile)	Allowed		
Car Rental - per day \$XX.xx Taxes on \$XX.xx	Allowed	Allowed	Must provide documentation of non-availability of rate-compliant vehicle.
(See note below for refueling charges)			
Fed-Ex from home office	If pre-approved by Owner		
Phone Bills: 900 #'s Home calls Collect calls Cellular calls  Cellular roamer charges  Site Pay phones Late Fees Taxes Detail of Calls	   If cost effective for Owner If project related and cost-effective for Owner  Allowed	Disallowed Disallowed Disallowed   Disallowed Disallowed	      Required
Training, conferences & all related expenses		Disallowed.	
MIS Services (Computer)		Disallowed.	
Vehicle inspection/repair		Disallowed	
Unreadable or no back-up receipts  (except on meals)		Disallowed expense	
Use of Subconsultants/Temporaries	Allowed		Provide documentation

**Refueling Charges:** If fuel was provided by rental agency, the cost in excess of \$XX.xx per gallon will be disallowed. If the cost per gallon is not indicated on the rental agency receipt, an assumed cost of \$XX.xx per gallon will be used to compute the number of gallons compensable @ \$XX.xx per gallon.

## EXHIBIT E

### PROJECT SCHEDULE

**D.1 PROJECT SCHEDULE:** The DP shall perform the DP services in accordance with the Project schedule negotiated and established for each project-specific Assignment issued pursuant to this Agreement. The schedule shown in this Exhibit may be limited as to specific performance information. Within seven (7) days of signing the Agreement the Owner and DP will develop a schedule in greater detail for the Project(s).

Released for Bidding is defined herein as: Bid Documents are to be printed and available for pick-up, or in route to all recipients by the release date.

All dates, except for the date of Bid Document release, are approximate and may be adjusted slightly as the project progresses.

**D.2 PERIOD OF PERFORMANCE:** The Period of Performance shall be as specified in the Project Schedule. The DP agrees that it shall exert every reasonable effort necessary to meet the required performance schedule established. The DP agrees to notify Owner immediately if, at any time, it appears that the performance schedule set forth in the Project Schedule cannot be met by DP. Such notification shall include the reasons for any possible delays and steps being taken to remedy any such problems. Nothing herein shall be interpreted as waiving remedies otherwise available to Owner.

**D.3** The Owner and DP recognize time is of the essence. The Owner may provide interim written approvals of the work products and written authorization to proceed with subsequent phases prior to completion of major phases. This may enable the DP to simultaneously produce various phases of the programming and design scope of services in order to aid the achievement of the design schedule presented herein. The Owner shall not unduly withhold such approvals or authorization.

**D.4** Project Schedule will be negotiated and established by DP and Owner for each project-specific assignment issued pursuant to this Agreement.

## **EXHIBIT F**

### **PROFESSIONAL LIABILITY INSURANCE**

**E.1 PROFESSIONAL LIABILITY INSURANCE:** The DP shall have and maintain in effect professional liability insurance for the DP Services with minimum limits of \$1,000,000.00 per claim and \$1,000,000.00 in the annual aggregate. The policy shall cover general professional liability, errors and omissions for the duration of this Agreement. The DP shall furnish to the Owner certificates of insurance detailing coverage for the DP.

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## EXHIBIT G

### FORMAT FOR REPORTING FEES FOR BASIC SERVICES, ADDITIONAL SERVICES AND REIMBURSABLE EXPENSES

- All billings for services performed under this Agreement shall be submitted via email at [tjjdinvoice@tjjd.texas.gov](mailto:tjjdinvoice@tjjd.texas.gov) and/or to:

Texas Juvenile Justice Department  
Attn: Claims Department  
P. O. Box 12757, Austin, Texas 78711  
or  
1711 San Jacinto, Austin, Texas 78701

- When invoicing for Basic Services, the percent complete shall be included for each phase of Basic Services invoiced.
- The DP shall break down the invoice by project and by individual project's Basic Services, Additional Services and Reimbursables. (See Exhibit G-1 attached for example.)
- The DP shall double-check all arithmetic by running two (2) tapes on long columns of figures, or by verifying the accuracy of the software application used to calculate totals, to ensure mathematical correctness.
- The DP shall proofread the completed, typewritten voucher, making sure that all Basic Services equal the dollar amount on the original Agreement. Also, the DP shall confirm that all Reimbursables and Additional Services are the only charges to date totaling "Extras Ordered."
- When a Service Authorization(s) is referenced by the invoice, each Service Authorization(s) referenced shall be included with the invoice. Each Authorization Letter shall be referenced by its Owner-assigned tracking number. Each Authorization Letter for Additional Services and Reimbursables issued by Owner to DP is assigned a tracking number by Owner and this tracking number shall be used when invoicing for these items. Backup for these authorized charges should continue to be included behind each authorization letter. No additional services or associated reimbursables should be invoiced to Owner without an authorization letter to reference.
- Reimbursables should be backed up with appropriate invoices, and each of these invoiced reimbursables should be specifically described (for example, if the DP is charging Owner for "Shipping", it should describe exactly what was shipped, by whom, when, where and why). No reimbursable should be invoiced unless it ties directly to a contract article or unless there is a specific authorization letter to reference.
- DP and related staff hourly labor claims should be invoiced to include the date, description of service provided, name of provider, hours, rate of pay and final amount.
- DP shall include with all pay vouchers submitted a list of payments (if any) made to any HUB/DBE subcontractor, consultant, or supplier, during the work period the voucher covers, and the dates the payments were made.

**Exhibit G-1**  
**SAMPLE INVOICE**

**SMITH, SMITH, SMITH & SMITH, INC.**  
**(BASIC SERVICES & ADDITIONAL SERVICES/REIMBURSABLES WILL**  
**VARY WITH EACH DP FIRM)**  
**FOR PERIOD 04/01/18 - 04/30/18**

**TJJD CONTRACT No:** \_\_\_\_\_ **ASSIGNMENT / PROJECT No:** \_\_\_\_\_

**SERVICE AUTHORIZATION No:** (if applicable) \_\_\_\_\_

	<u>% Complete</u>	<u>Approved Contract</u>	<u>% Due to Date</u>	<u>Previously Invoiced</u>	<u>Amount Due This Invoice</u>
<b>BASIC SERVICES</b>					
Prototype Design Phase (0%)					
Schematic Design Phase (0%)					
Construction Document Phase (0%)					
Bid & Award Phase (0%)					
Construction Phase (0%)					
Design Development Phase (0%)					
<b>TOTAL BASIC SERVICES</b>					
<b>ADDITIONAL SERVICES</b>					
Architect(s), Hourly Labor					
Owner-Requested Consultant(s) Hourly Labor					
Coordinate Estimator.					
Coordinate Surveyor					
Inspections					
Geotechnical Testing Svcs.					
TJJD Tracking No: _____					
Addl. Svcs. Auth. Ltr. dtd _____					
<b>TOTAL ADDITIONAL SERVICES</b>					
<b>REIMBURSABLES</b>					
Geo Tech Engineer					
Printing					
Estimator					
Surveyor					
Shipping/Postage					
Transportation \$ xx       miles					
Lodging \$XX/day/person					
Meals \$XX/day/person					

TOTAL REIMBURSABLES \$ \_\_\_\_\_

TOTAL EXTRAS (TOTAL ADDL. SVCS. + TOTAL REIMBURSABLES) \$ \_\_\_\_\_

TOTAL THIS VOUCHER/INVOICE (TOTAL BASIC + EXTRAS) \$ \_\_\_\_\_

## **EXHIBIT H DESIGN REQUIREMENTS**

### **CODES, STANDARDS, PROCEDURES AND COURT STIPULATIONS/ORDERS**

The most current version (as of the date of this Agreement) of the following Codes shall be used. NOTE: TJJJ may require the use of future editions, when accepted by TJJJ.

**G.1.** All TJJJ renovation and construction projects shall be designed and built-in accordance with the following Codes and Standards. **NOTE:** Where conflicts occur between these codes, Life Safety Code NFPA No. 101 and its referenced codes shall be followed.

- a. Life Safety Code NFPA No. 101
- b. National Fire Prevention Association (NFPA) National Fire Codes
- c. Uniform Building Code & UBC Standards
- d. Uniform Plumbing Code
- e. Uniform Mechanical Code
- f. National Electrical Code, NFPA No. 70

**G.2.** For all TJJJ renovation and construction projects the designer, where relevant, shall consider and apply the following standards or codes of the organizations listed below and shall reference them in the applicable section of the specifications.

- a. American Society of Mechanical Engineers (ASME)  
Boiler and Pressure Vessel Code
- b. American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE):
  - 1. Handbook of Equipment
  - 2. Handbook of HVAC Systems and Applications
  - 3. Handbook of Refrigeration Systems and Applications
  - 4. Handbook of Fundamentals
  - 5. Handbook of Systems
  - 6. ASHRAE Standard 55, Thermal Environmental Conditions for Human Occupancy
  - 7. ASHRAE Standard 62, Ventilation for Acceptable Indoor Air Quality
  - 8. ASHRAE Standard 90A, Energy Conservation in New Building Design
  - 9. ASHRAE Standard 100.5, Energy Conservation in Existing Buildings - Institutional
- c. Underwriters Laboratories, Inc. (UL)
- d. American Society for Testing and Materials (ASTM) Standards in Building Codes
- e. American Water Works Association (AWWA)
- f. National Electrical Manufacturers Association (NEMA)
- g. Sheet Metal and Air Conditioning Contractors National Association (SMACNA)
- h. American Gas Association (AGA) Certification Standards
- i. National Sanitation Foundation (NSF) standards and approvals for kitchen and scullery equipment, and NSF Standard No. 2 in particular.
- j. American Concrete Institute (ACI)
- k. National Concrete Masonry Association Specification for the Design and Construction of Load-Bearing Concrete Masonry
- l. American Institute of Steel Construction (AISC)
- m. American Iron and Steel Institute (AISI) Specification for the Design of Cold-Formed Steel Structural Members
- n. American Welding Society (AWS)
- o. American National Standards Institute (ANSI)

**G.3.** All TJJJ renovation and construction projects shall be designed, built and procedures performed, where relevant, in accordance with current standards.

- G.4.** Reserved.
- G.5.** All TJJJ renovation and construction projects shall be designed and built-in accordance with applicable State and Federal laws, statutes, and standards, including but not limited to the following:
- a.** Energy Conservation Design Standard for New State Buildings.
  - b.** Elimination of Architectural Barriers Act – Texas Government Code, Chapter 469.
  - c.** Americans with Disabilities Act of 1990.
  - d.** Texas Food Establishment Rules - Texas Department of State Health Services Health, Division for Regulatory Services, and any other applicable Texas Department of State Health Services Division construction or related guidelines.
  - e.** United States Department of Agriculture.
  - f.** 29 CFR Secs. 1926.651 - 1926.652 and Subpart P generally of the Occupational Safety and Health Standards (OSHA) and all other related OSHA standards and regulations.
  - g.** Public Law 91-596, 29 U.S.C. Secs. 651 et seq., the Occupational Safety and Health Act of 1970, (OSHA) and all amendments thereto.
  - h.** Flood Protection Planning/Floodplain Management in Texas, Texas Water Development Board.
  - i.** Environmental Protection Agency (EPA), 40 CFR Parts 122, 123, 124, et al., National Pollutant Discharge Elimination System (NPDES) Permit Program.
  - j.** Texas Boiler Law - Chapter 755, Texas Health and Safety Code, and Texas Department of Licensing and Regulation standards and regulations.
  - k.** Texas Commission on Environmental Quality regulations and standards – 30 TAC Part 1 (examples):
    - 1.** Water Quality: 30 TAC 279.1-13;
    - 2.** On-Site Sewage Facilities: 30 TAC 285.1-91;
    - 3.** Solid Waste Management: 31 TAC Chapters 330 and 335.
  - l.** Solid Waste Disposal Act, Chapter 361 of the Texas Health and Safety Code.
  - m.** The Clean Air Act of 1990.
- G.6.** Where conflicts occur between the codes or standards of Sections 1 and 2 and Court Stipulations or Orders of Section 4 the standards in the Court Stipulations or Orders of Section 4 shall be followed unless federal or state laws require otherwise.
- G.7.** Variances to the Codes and Standards of Sections 1 and 2 may be sought from and approved by the TJJJ(-) offices of the Director Construction or the organization promulgating the code or standard. Written records of approved variances shall be maintained. Cost or expedience shall not be grounds for a variance.
- G.8.** Some TJJJ renovation and construction projects will be in areas of Texas with local special requirements in the form of laws, statutes, codes, and standards which require DP services which are not customarily furnished in accordance with generally accepted architectural/engineering practice. These projects will be designed and built in accordance with these local special requirements. For these services, the DP shall be allowed Additional Services/Reimbursable Expense compensation. These local special requirements include but are not limited to the following:
- a.** Lower Colorado River Authority (LCRA) - Upper Highland Lakes Nonpoint Source Pollution Control Ordinance.
  - b.** El Paso Water Utilities Public Service Board - Water Resource Management Plan.
  - c.** Political entities which have jurisdiction within their boundaries to set and enforce environmental compliance standards in addition to TCEQ and EPA rules and regulations. These political entities include regulatory agencies such as River Authorities, Subsidence Districts, and Coastal Water Authorities.
- River Authorities:** Projects that border or fall within 2000' of any major river in the State of Texas.  
**Examples:** Trinity River Authority, Brazos River Authority, Colorado River Authority, etc.
- Subsidence Districts:** Projects that fall within a set district boundary. **Examples:** Fort Bend Subsidence District, Harris-Galveston Coastal Subsidence District. etc.

**Coastal Water Authorities:** Examples: U. S. Coast Guard - Beaumont, Port Arthur; U. S. Army Corps of Engineers, Galveston District. See Article G.9.

**G.9.** The DP shall obtain for the Owner all applicable approvals from governmental authorities and governing bodies having jurisdiction over the design, construction, and/or operation of the Project, as further described in the Agreement. Typical Codes, Standards, Laws, Statutes, etc. which require such approval are identified in this exhibit with an asterisk (\*).

**G.10.** All Texas Juvenile Justice Department (TJJD) renovation and construction projects shall be designed, built and procedures performed, where relevant/applicable, in accordance with the codes, standards and procedures previously identified in this Exhibit, along with the applicable provision of the American Correctional Association Standards for Juvenile Training Schools, the American Correctional Association Standards for Juvenile Correctional Facilities Third Edition (1991), the American Correctional Association 1996 Standard Supplement, and the Second Amended Settlement Agreement in Morales v. Turman, U.S. District Court Eastern Division of Texas No. 1948, April 16, 1984. Additionally, all documents shall be prepared in accordance with the Texas Juvenile Justice Department "Specifications for Delivery of Documents to Owner", and where applicable, with TJJD's "As Built Requirements for Documents."

## **EXHIBIT I**

### **OUTSIDE CONSULTANTS**

List all consultants with address, contact information, and disciplines provided for each individual project to be executed under this contract.

SAMPLE

## EXHIBIT J

### STANDARDS OF CONDUCT FOR CIVILIAN CONTRACTED EMPLOYEES

#### I. SECURITY MEASURES

##### GENERAL SECURITY MEASURES

No person working for or otherwise connected with the Contractor (his agents, subcontractors or their employees) shall be allowed to bring onto the owner's (state) property firearms, alcoholic beverages, drugs, tobacco products or any other controlled substances with the exception of prescription medication. No such person shall cross any fences, except those fences designated to allow egress and ingress to the construction site. All vehicles shall be kept locked with windows up while on the owner's property. Contractors' employees shall avoid all contact with TJJD Youth, no employee shall converse with or otherwise communicate with any TJJD Youth. In addition to the usual civil and/or criminal penalties for violations of the above regulations, the Owner reserves the right to refuse further entry to the job site to any individual who has violated the above restrictions. Further, the Owner reserves the right to immediately remove from the job site any individual who has violated the above restrictions.

#### II. EXPECTATIONS OF CONTRACTORS AND SUBS

##### A. ALL CONTRACTORS, SUBS, AND THEIR EMPLOYEES WILL:

1. Read and sign the Texas Juvenile Justice Department Standards of Conduct for Civilian Contractor Employees.
2. Refrain from bringing firearms, ammunition, alcoholic beverages, tobacco products, drugs (with the exception of prescription drugs) or any other contraband items on the property of the Texas Juvenile Justice Department. This includes in personal vehicles of the on-site workers.
3. Assure that vehicles will remain locked at all times when operator is absent.
4. Assure that there shall be no contact with any TJJD Youth in the TJJD facility.
5. Understand that approved visitors of the TJJD Youth will not be allowed to work on any project that involves contractor work at this facility.
6. Understand that vehicles are subject to search at any time while on State property.
7. Understand that shorts, opened-toed shoes, sleeveless tops, tattoos or body paintings, metal nail files or nail clippers, any type of pornographic materials, pagers & cell phones (unless job issued and necessary), cameras, glass bottled drinks, opened container drinks are strictly forbidden on campus. Only plastic bottled or unopened carton drinks will be allowed.

##### B. GENERAL SECURITY FOR TOOL CONTROL

1. All tools including Class "A" are to be inventoried and properly accounted for at the end of each work day.
2. Any changes to an individual's tool box inventory should be immediately reported to the Facility Superintendent or designee.
3. Tools should be accounted for at all times by the individual responsible for the use of such tools.
4. When Class "A" tools are not in use, they shall be kept and locked under key in a secure area and if possible rendered inoperable. Class "A" tools include, but are not limited to, tools most likely to be used in an escape attempt or do bodily harm. These generally include hacksaw blades, files, pipe wrenches, ladders, acetylene cutting tips, pipe and bolt cutters, etc.
5. At no time are Class "A" tools to be left unattended and when in use, special care taken to ensure their security. Any loss of any tool shall be reported to the Facility Superintendent or designee.
6. Generators, ladders, and acetylene cutters all must be secured at the end of each work day.

7. Emery wheels will be locked and rendered inoperable when not in use unless stored outside of the secured perimeter.
8. All hazardous and poisonous chemicals, not in use, are to be stored in a locked tool trailer or other secure area. An inventory shall be maintained and direct supervision provided when the items are used at the work site. Upon completion of the project, the Contractor will be responsible for the removal of all hazardous materials and all hazardous waste generated under his control.

I have received a copy of the **“STANDARDS OF CONDUCT FOR CIVILIAN CONSTRUCTION CONTRACTOR’S EMPLOYEES”** issued by the Texas Juvenile Justice Department or its contracted construction manager.

I have read, understand and will comply with this policy.

---

Signature SSN

---

Driver’s License Number State

---

Company

---

Date

---

Printed Name and Address

---

Witness

**EXHIBIT K**

**DESIGN PROFESSIONAL'S RELEASE**

Pursuant to the terms of the TJJD Contract No. \_\_\_\_\_, as amended, and in consideration of the sum of \_\_\_\_\_ Dollars (\$xxxxxxx), which has been or is to be paid under the said Contract to \_\_\_\_\_ (hereinafter called the Design Professional) or its assignees, if any, the Design Professional for itself and its sub-consultants and/or subcontractors, upon payment of the said sum by Texas Juvenile Justice Department (hereinafter called Owner), does release and discharge Owner, their officers, agents, and employees, of and from all liabilities, obligations, claims and demand whatsoever under or arising from the said Agreement.

In witness whereof, this release has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 20xx

Design Professional

Name of Firm

By

Authorized Signature of

Title

Date

Certificate

I, \_\_\_\_\_, certify that I am (title) \_\_\_\_\_ of the firm named as Design Professional in the foregoing release: that \_\_\_\_\_, who signed said release on behalf of the Design Professional and its sub-consultants and/or subcontractors, was the (title) \_\_\_\_\_ of said firm: that said release was duly signed for and in behalf of said firm: and is within the scope of its powers as so constituted.

(if Corporation affix Corporate Seal)

## EXHIBIT L

### RECORD DRAWING REQUIREMENTS

#### **N.1.1 Originals**

The original construction drawings shall be electronically edited to reflect as built conditions. One set of redline documents shall be submitted with the electronically edited construction drawings.

#### **N.1.2 Reproductions**

After completion of all electronic modifications provide the Owner with two sets of the completed construction drawings.

#### **N.1.3 Labels**

The Architect/Engineer shall modify the original construction documents to reflect all design changes that occurred during the bidding/negotiations phase and the construction administration phase. All clouds, deltas, and revision dates shall be removed from the drawing files. Details that are not used may have an electronic "X" and "Not Used" across them for the sake of clarity. Each drawing will be labeled "Record Drawings" and the date the record drawings were delivered to the Owner.

EXAMPLE: RECORD DRAWINGS  
04-01-2018

The actual printed height of the text shall be 1/4".

#### **N.1.4 Electronic Drawings and Documentation**

##### **Cad drawings**

All drawings will be standardized to the latest version of AutoCad™.

##### **Layer formats**

All vender firms will use maintain and deliver a layering schedule to TJJD to reflect their own layering standards. All drawings elements that are supposed to be on a layer should be on that layer, and noted on the layering schedules. This will insure that when layers are turned off, prints may be made of drawings without symbols, text and the like being displayed or printed correctly. All color, line types, and other properties will remain constant within the layer schedule for that layer throughout the set of drawings.

##### **Text and fonts**

Any font used by vender firms to represent a text type should be standard fonts found within the program AutoCad™ itself, or be placed in path with the drawings at no cost to TJJD. Fonts should be uniform throughout the project and should be uniform in size, and format. Fonts with special horizontal or vertical spacing should not be used. For small text fonts, Simplex is preferred but not required.

##### **Xrefs and blocks**

All xrefs, and blocks used by vendor firms, and their subcontractors shall be placed in path. Final drawings may have their xrefs and blocks bound into the final product, or place them in path. Xrefs, and blocks should be noted in the layering schedule.

##### **Drafting standards**

All text fonts should read 1/8" for small text types, and 1/4" for large text types minimum. Text sizes are designed to be read for half scale, and on occasion smaller than even that. Serifs and similar adornments in text types should be avoided. Simplex should be used in place of text fonts with numerous serifs and adornments. Hatch, line and text scale should be uniform within the set of drawings.

##### **Specifications and project manuals**

Specifications and project manuals should be written in Microsoft Word, Excel, PowerPoint, etc. Final construction (bid documents) will always be in Microsoft Word.

##### **As-Built drawings**

All changes made during the construction phase of the project need to be reflected in the as-built drawings, specifications and project manuals. The redlined copies of the drawings and specifications will be delivered

with the CDs and final set of drawings, and specifications. Included in the drawing set will be an Adobe PDF format set of plot files, Autocad PLT files to reflect the. One set of bond, and one set of vellum record drawings should be included with the printed project manuals, and or specifications.

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## EXHIBIT M

### TJJD GUIDE FOR DELIVERY OF ARCHITECTURAL/ENGINEERING SERVICES

#### **DESIGN PROFESSIONAL'S DESIGN SUBMITTAL PROCEDURES AND MINIMUM INFORMATION REQUIREMENTS**

The following guidelines are set forth to direct the Design Professional (DP) in a quantitative and qualitative evaluation of requirements for milestone project reviews by the TJJD Construction Department.

**\*NOTE:** These standards have been developed as a general guide only and shall not be construed as containing provisions to address all necessary documentation required by the DP agreement for professional services or requirements under the Professional Registration Laws of the State of Texas. Responsibility, for clearly, accurately and completely developing construction documents that properly qualify the requirements intended and provide against misunderstandings jeopardizing the Owner and or the Contractor, remains with the Design Professional and not TJJD.

Approval of previous phase or stage of the project by the TJJD - Construction Department Representative/s does not relieve the DP from complying with requested changes, modifications or studies within any given phase or stage of the project.

#### ***SCHEMATIC DESIGN PHASE***

The Concepts Presentation is the first stage and its primary goal is to evaluate alternative conceptual design studies and using this information, set the project direction, submittal, and review.

#### ***SCHEMATIC DESIGN***

Design concept studies shall be required to fully explain the presented design and possible alternatives. There will be a working session, and collaboration between Owner and DP, where DP is expected to present conceptual design studies for building siting, floor plans which vary by layout, structural concepts with associated advantages/ disadvantages to the floor plans and equipment layouts. The DP may present concept schemes in a single line, rough sketch, free-hand, to-scale format with sufficient detail to allow adequate comparison of the schemes; or the DP may present such information in CADD format. This step may require several attempts before a firm direction for proceeding with Schematic Design can be set.

When the selected design results in an acceptable solution the Owner will authorize the DP to proceed with the development of a final concept design.

***SCHEMATIC DESIGN*** The DP shall begin design investigations and document development.

The final stage of Schematic Design requires the Construction Department Design Coordinator to schedule (with the DP and TJJD user groups/owners) a meeting for review of Schematic Design documents of this phase of the work. This meeting shall be held by Video Conferencing, Teams Meetings or In-person to review and comment on these documents. The DP's representative/s and necessary Project Consultants shall be available at this meeting for a detailed presentation and discussion of the submitted design.

Appropriate TJJD User Groups/Owners will be invited to attend these meetings, and will be available for the purpose of answering/asking questions and resolving design issues. This design submittal will be checked for POR compliance, budget compliance and coordination of Architectural, Structural, Mechanical, Electrical, and Plumbing designs.

A comparison of estimated construction costs between systems; and between system options will be required at this presentation. This stage will include any recommended bid packages, alternates and/or phasing for the project.

The time frame for this submittal will be made in accordance with the DP's Agreement for Professional Services.

**SCHEMATIC DESIGN SUBMITTAL**

The DP shall be prepared to discuss the "accessible aspects" of the proposed design with references to Texas Accessibility Standards, Federal Accessibility Standards and ADA.

The DP shall provide a narrative as to the proposed method of site drainage and compliance with flood hazard guidelines and EPA requirements as required in the DP Agreement, if applicable.

Final Schematic Design Submittal drawings shall be hardline type drawings and not of freehand sketch nature; or the DP may present such information in CADD format.

- N/A N Y Site plans indicating size and relative location of the buildings and site improvements
  
- N/A N Y Scaled (1/8"=1'-0" min.) architectural drawings of floor plans and elevations and any other graphic/drawing (sections, perspectives, sketches) as the DP deems appropriate to clearly establish the design, building sizes, and configurations.
  
- N/A N Y A comparison of gross and net areas to design program areas. Net square feet areas and physical room sizes shall be indicated on the floor plans for each programmed room or area.
  
- N/A N Y Analysis of the options for structural, HVAC, plumbing, electrical and site utility systems, Recommended.
  
- N/A N Y Preliminary outline specifications to indicate, in general terms, the materials ,finishes and types of construction being considered and proposed. These specifications shall follow the approved CSI format and will be numbered in accordance with TJJJ-Construction Department's standards.
  
- N/A N Y Any recommended bid packages and/or phasing for the project.
  
- N/A N Y Recommendations by the DP for options: Structural, HVAC, Plumbing and Electrical systems, for further study and analysis during the design development phase.

**DESIGN DEVELOPMENT** This FINAL stage of design development shall provide continued expansion of drawings, details and other documents to establish final scope, relationships, forms and sizes of the project. The goal of this stage of the work is to have all major building systems selected and options/ alternatives studied, selected and approved. The TJJJ Design Coordinator shall schedule a review meeting. If information is inadequate or is improperly coordinated, the review will be rescheduled with no change in the DP's Contract Time Schedule. This is a milestone phase of the DP's continuing work, and the DP will not be given authorization to proceed to the next phase until TJJJ requested changes have been satisfactorily addressed.

**DESIGN DEVELOPMENT SUBMITTAL**

While the following list is very specific, if the project size warrants, sheet information may be combined. Total information content of entire package is the main consideration.

The DP shall show "accessible aspects" of the proposed design with references to Texas Accessibility Standards, Federal Accessibility Standards and ADA requirements as stated in the DP Agreement. These descriptions (narrative and graphic) shall show intent of compliance with the requirements of the codes, within the overall concept design.

The DP shall provide calculations and a graphic solution for compliance with EPA flood hazard guidelines as required in the DP Agreement.

The DP shall provide "basis of design" information on a separate document or, preferably on the drawing cover sheet or similar sheet. This basis of design information is data on which the DP has based his design or the design criteria of his consultants. This information shall not be construed as requiring the DP to provide Additional Services beyond Basic Services as required by the State Registration Law and in the

DP Agreement for Professional Services reflecting the highest competency, thorough, and complete work with prudent care.

This information shall include:

- N/A N Y Architectural code related information (fire exits, height/ area, travel distance, etc.).
  - N/A N Y Structural design criteria.
  - N/A N Y Civil and Site Improvement criteria and analysis including survey and geotechnical/geology reports, utility distribution system design, foundation design, site grading and storm drainage design, roads and parking design.
  - N/A N Y Structural criteria including design loads, materials and properties, applicable design codes, standards or references, and methods of design and analysis.
  - N/A N Y Governor's Energy Conservation in all New State Buildings - calculations summary.
  - N/A N Y Utility Load Analysis: Provide as early in the design process as possible a load analysis and connection point location/s of all utilities required in the design. Specifically provide analysis to include, but not limited to, the following:
    - N/A N Y a) Electrical Power required by
      - N/A N Y 1) Manufacturing equipment loads
      - N/A N Y 2) Lighting loads
      - N/A N Y 3) Building environmental systems
    - N/A N Y b) Domestic Water loads
    - N/A N c) Natural gas requirements
  - N/A N Y Determine the ownership of the source of the required services and coordinate connection to all utilities.
  - N/A N Y For fire protection and plumbing systems- calculations and identification of design criteria, applicable design codes, standards or references, and confirmation of utility services to be provided.
  - N/A N Y For HVAC systems provide a schedule with each air handling unit, pump, chiller, compressor or other equipment component identified.
  - N/A N Y For HVAC systems include identification of building zones and building insulation requirements.
  - N/A N Y For electrical systems provide schedules of system components; calculations and identification of design criteria, applicable design codes, standards or references; lighting levels utilized both interior and exterior; short circuit studies to select interrupt ratings of protective devices and confirmation from the local power company confirming the type and location of service to be provided; distribution, both primary and secondary.
  - N/A N Y Emergency generator load analysis per NEC.
- Report from a professional fire safety engineer confirming compliance (allowing for equivalency concepts accepted by the TJJJ Safety administrator) with the National Fire Protection Association's (NFPA) "Life Safety Code" No. 101, to include the following:

- N/A N Y A written report and a set of architectural floor plans indicating location and requirements for exits, stairwells, smoke compartments, building separations, doors, fire extinguishing and detection systems, capacity and requirements of fire protection water systems.
- N/A N Y The DP shall provide a tabulation of areas for spaces which have changed since the last design submittal. This tabulation shall indicate original POR requested area, previously designed area, and present area.
- N/A N Y Any recommended changes in the proposed bid packages or construction phasing for the project shall be identified.
- N/A N Y Should the project be a facility requiring exacting coordination of a specific system/s (i.e., manufacturing or food service facility, laundry, etc.), the DP shall prepare specific drawings showing various equipment layouts or items of a similar nature in context with a detailed architectural or other floor plan, thus allowing consideration of system integration as a whole. The DP may be required to show this layout in color or with a special graphic pattern for presentation legibility.

**Architectural Site Plan shall include:**

- N/A N Y Scaled drawings of site plan(s).
- N/A N Y Location, outline and designation of existing buildings, walks, drives and parking and service areas adjacent to the site.
- N/A N Y Overall dimensions of the proposed building or buildings, dimension from adjacent buildings, dimension from existing security fences and pickets.
- N/A N Y Location of new walks, drives, parking spaces, streets, and other exterior facilities proposed to be included in the project, including the building service area.
- N/A N Y Show plan north arrow and graphic and inch scale.
- N/A N Y Method of site drainage and roof drainage
- N/A N Y Utility service lines.
- N/A N Y First floor elevation and sufficient contour lines to generally establish natural and finish grades.
- N/A N Y Vertical sections through site, if topography requires such study.
- N/A N Y Proposed Contractor's access to and security fencing for site.
- N/A N Y Proposed storage areas and parking areas for the Contractor's use during construction. Special considerations for security shall be indicated.

**Architectural Floor Plan(s) shall include:**

- N/A N Y Scaled drawings of all floor plans all building elevations, selected building and wall sections, structural foundation and framing plans, and mechanical and electrical plans and drawings to establish the structural, HVAC, plumbing, electrical and site utility systems to be utilized. Floor plans shall include the net square foot area of all programmed rooms or areas. Mechanical and electrical systems may be single line drawings with size and location of components.
- N/A N Y Dimensioned, small scale (one eighth inch min.) drawings of principal floor plans, delineating door locations, corridor widths, partition locations, equipment layout and process flow.

- N/A N Y Location of entrance doors, vestibules, windows, docks, and any other apertures in the building envelope.
- N/A N Y Location of plumbing fixtures, toilet fixtures, and including drinking fountains.
- N/A N Y Location of major electrical, plumbing and mechanical equipment.
- N/A N Y Location of equipment, with identifying nomenclature.
- N/A N Y Location of fixed and built-in furnishings.
- N/A N Y Location of moveable furnishings shown in POR.
- N/A N Y Space and utilities for Owner furnished equipment (as listed in POR).
- N/A N Y Location of fire extinguisher, hose cabinets, and/or fire alarm annunciator panel.

**Building Elevations shall include:**

- N/A N Y Show all principal elevations.
- N/A N Y Show floor to floor dimensions and overall height.
- N/A N Y Dock heights and relationship to finish grade.
- N/A N Y Materials shall be clearly indicated and noted.
- N/A N Y Natural and finish grades shall be located on elevations.

**Building Sections shall include:**

- N/A N Y Transverse section showing structural concept.
- N/A N Y Longitudinal section showing structural concept.
- N/A N Y Supplemental sections as required to explain any unusual conditions.
- N/A N Y Sections shall indicate floor to floor dimensions, clear ceiling heights, structural, air distribution and other systems indicating vertical interference with ductwork, compressed air, natural gas and other such systems.

**Structural Design submittal shall include:**

- N/A N Y Foundation plan; footing type.
- N/A N Y Floor Framing plans; indicate materials.
- N/A N Y Typical Framing types.
- N/A N Y Typical Beam Depths.

**Mechanical and Electrical Design Submittal shall include:**

- N/A N Y Equipment Layout.
- N/A N Y Special services required by equipment.
- N/A N Y Mechanical Flow Diagrams:

N/A	N	Y	Air Systems.
N/A	N	Y	Single line duct drawings indicating duct size.
N/A	N	Y	Domestic Water Systems.
N/A	N	Y	Fire Protection Systems.
N/A	N	Y	Building piping:
N/A	N	Y	Site utilities.
N/A	N	Y	Routing of all piping systems headers.
N/A	N	Y	Plumbing:
N/A	N	Y	Riser diagrams indicating fixture types and locations adequate to set scope for future project development.
N/A	N	Y	Floor Plan.
N/A	N	Y	Site utilities.
N/A	N	Y	Electrical:
N/A	N	Y	One line diagram for door control panels, security control panels, alarm annunciator panels, locations and system requirements.
N/A	N	Y	Riser diagram indicating site, distribution and building riser.

**Site distribution**

N/A	N	Y	Elevations as required.
N/A	N	Y	Details as required.

**SCHEDULE OF FINISHES:**

N/A	N	Y	A finished schedule to indicate intended types and application of all interior and exterior finishes.
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**SUPPLEMENTAL DRAWINGS AS REQUIRED:**

N/A	N	Y	As may be necessary to fully explain special conditions.
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**OUTLINE SPECIFICATIONS:**

N/A	N	Y	Outline specifications, organized in a CSI Division format, numbered in accordance with TJJJD approved numbering system, indicating the materials, equipment and type of construction proposed for all elements of the projects, with a narrative discussion of any quality options with significant differences related to cost, durability or design significance.
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**CONSTRUCTION DOCUMENTS PHASE**

This phase shall provide continued development and expansion of drawings, details and other documents from previous phases, to establish final bidding and construction documents. The construction documents for each bid package shall consist of working drawings and details, schedules, and technical specifications, giving the requirements for competitive bidding and construction of the entire project. Bidding and

construction drawings for all divisions of work shall be complete and thorough in all respects, well-coordinated, clear, and organized in a consistent format throughout the documents.

This phase of the work will be submitted for review in accordance with the time frame as required by the DP Agreement for Professional Services.

The Design Coordinator will schedule (with the DP and TJJD user groups/owners) a meeting for review of documents of this phase of the work. The DP's representative/s and all Project Consultants shall be available at this meeting for a detailed discussion and review of the submitted design.

The DP shall advise the TJJD Design Coordinator of any changes in project cost, time schedule, bid packaging and phasing prior to submitting for review.

The DP shall submit documents for the project to TJJD - Construction Department and obtain reviews and/or approval of other agencies (as established by DP Agreement). The DP should strive to insure that appropriate approvals have been obtained prior to the documents being released for bidding. The DP may be required by the DP Agreement to request review and approvals of other Agencies such as the Texas Commission on Environmental Quality (TCEQ) for specific new construction and operating permits. Permits may be required for specific building/manufacturing systems such as: boiler, paint booths, air exhaust systems, etc., under regulations of Texas Commission on Environmental Quality (TCEQ), TAC Publication 31, Chapter 116, referencing the Clean Air Act of 1990; 30 TAC §§ 116.10-1540.

The DP shall show compliance of the proposed design with references to Texas Accessibility Standards, Federal Accessibility Standards and ADA requirements as stated in the DP Agreement. This may be done by identifying all accessibility items by category with a check list of: compliance, not applicable or requesting a waiver. This checklist will be submitted with appropriate documents generated by the DP to fully describe the project to the plan reviewer at the offices of the Department of Licensing and Regulation (DLR). The checklist used by the DLR may also be used as the format for the DP's submittal. The intent of this portion of the DP's work is to assist the Design Coordinator in review, but also, to assist the DLR in review and prevent a lengthy discourse between the DP and DLR to determine project compliance.

The DP may be required to submit documents for review to the:  
Texas Department of Licensing and Regulation  
Policies and Standards Division, Architectural Barriers  
920 Colorado Street  
Austin, Texas 78701  
(512) 463-6599

The DP shall update the "basis of design" information in same format as provided in the Design Development Final Stage.

The DP shall update the EPA storm run-off compliance and documents showing compliance.

The DP shall provide consistent graphic representation of information among all sheets of all disciplines of work. The documents will be graphically reduced to one-half the full size; therefore all lettering and dimensions shall be drawn (minimum 1/8" high) so as to be legible when reduced. All sheets shall have a graphic scale for each different drawing scale represented.

### **CONSTRUCTION DOCUMENTS SUBMITTAL PHASE**

Format information and sheet layouts per previously approved Final Design Development Phase with minimum information content as follows:

Minimum Information Content by Drawing Designation:

#### **Site Plan(s)**

N/A N Y Bench mark location, elevation, and datum.

N/A	N	Y	Soil investigation data showing test hole locations and log (if necessary).
N/A	N	Y	All boundaries with direction and dimension, existing buildings, trees, etc.
N/A	N	Y	Location of building (dimensional) or site coordinates.
N/A	N	Y	Location and dimension or site coordinate of all walks, drains culverts, manholes, tunnels, sanitary and storm sewers (invert elevations), easements, etc.
N/A	N	Y	Details of security fences, gates, curbs, concrete walk joints, culverts, retaining walls, steps, ramps, etc.
N/A	N	Y	All existing and finished contours and spot elevations.
N/A	N	Y	Building finish floor elevation. (Special consider for truck dock height and F.F. relationship)
N/A	N	Y	Locate trash pick-up area, parking (including for handicapped if applicable), striping, etc.
N/A	N	Y	Street Profiles.
N/A	N	Y	Landscape and Irrigation layouts.
N/A	N	Y	Storm drainage layout.
N/A	N	Y	Storm drainage profiles and details.
N/A	N	Y	Landscape and Irrigation Drawings.

### **Structural Foundation and Floor Framing Plan and Details**

N/A	N	Y	Floor openings and recesses. (Architectural coordinated with Structural).
N/A	N	Y	Dimensions and locations of all footings.
N/A	N	Y	Elevations of footings. (Bidding depth shown).
N/A	N	Y	Material sizes and application in conflict with architectural details (i.e., door threshold, angles, brick recess, slab recesses, slab recesses, special flooring, water stops, etc.).
N/A	N	Y	Finishes floor elevations.
N/A	N	Y	Openings recesses for mechanical or electrical.
N/A	N	Y	Cooling tower pads, screen walls, etc.
N/A	N	Y	Vertical reinforcing for free standing walls.
N/A	N	Y	Imbedded items.
N/A	N	Y	Control and expansion joints in Agreement with architectural details.
N/A	N	Y	Details and schedules to conform with architectural drawings.

### **Underfloor Grading Plan**

N/A	N	Y	Must agree with structural drawings (may be located on foundation plans). Show grading, sump pits (coordinate with mechanical Plans). Indicate grades and drainage slopes.
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### **Sub-soil Drainage System**

N/A N Y Pipe sizes, joints, slots or perforations turned down, grading, screening, backfill material porosity, pipe slope, location to properly drain to sump or outfall.

### **Roof Framing Plan and Details (Structural)**

N/A N Y Material sizes and application in conformance with architectural details.

N/A N Y Roof openings (size, location, and dimension).

N/A N Y Dimensions indicated.

N/A N Y Roof slopes built into the structural framing (not with Urethane Foam except small crickets).

N/A N Y Clearances in ceiling plenums; ductwork, light fixtures and piping.

### **Floor Plans**

N/A N Y Dimensioning: Dimensions throughout drawings, including locating structural, must add up by strings of dimensions locating all walls and partitions with an overall.

N/A N Y Doors: Major entrances to have vestibules (7'-0" minimum depth for handicapped).

N/A N Y Indicate swing--special thought to toilet rooms; traffic flow; code requirements; etc. (Coordinate with electrical light switches.).

N/A N Y Coordinate with finish hardware schedule. Assure hardware compatibility with adjacent Unit hardware.

N/A N Y Hoods and canopies for all exterior doors (especially opening outward).

N/A N Y Windows: Detail membrane waterproofing at sills, jambs and heads to eliminate water penetrations.

N/A N Y Special provisions for security.

N/A N Y Louvers: Selected to prevent water penetration. Indicate security measures utilized.

### **Access doors and panels**

N/A N Y Provide for under-floor space and access for utility and 20' pipe or pump replacements.

N/A N Y Access panels for cut-offs, clean-outs, and electrical items.

N/A N Y Access to above ceiling mechanical or other equipment.

N/A N Y Indicate security method used on all building envelope openings and access panels.

N/A N Y Rooms and/or spaces:

N/A N Y Name and number on each room or space, in Architectural and MEP floor plans.

N/A N Y Verify wall thickness and chase net sizes for Mechanical.

### **Graphic Delineation**

N/A N Y Walls and partitions highlighted.

N/A N Y Materials and wall heights indicated.

N/A N Y Demolition highlighted or shaded.

### **Roof Plans**

N/A N Y Drainage indicated.

N/A N Y Emergency overflow scuppers indicated.

N/A N Y Required slopes for roof membrane warranty.

N/A N Y Roof mounted items and penetrations indicated:

N/A N Y Maintenance walkway to and around equipment

N/A N Y Equipment (maintenance access to roof mounted equipment).

N/A N Y Screening of equipment and exhaust stacks.

N/A N Y Access to roof.

### **Reflected Ceiling Plan**

N/A N Y Lighting fixture layout, ceiling registers, and return air grilles, exhaust grilles, security camera mounting locations, access panels, skylights, sprinkler heads, smoke sensors, etc.

### **Schedules**

#### **Room finish**

N/A N Y Room name and number, indicate materials for floors, walls, ceilings.

#### **Door and Window Schedule**

N/A N Y Door and frame elevations, types, numbers, hardware designations and details.

#### **Exterior Elevations (show the following)**

N/A N Y Mechanical Equipment Devices (including roof mounted).

N/A N Y Exterior elevation of all building openings.

N/A N Y Exterior graphics.

N/A N Y Vertical dimensions.

N/A N Y Finish grades at building lines.

N/A N Y Truck dock relationship to finish floor and finish grade.

N/A N Y Expansion and control points.

#### **Building Sections**

N/A N Y Crawl space drainage.

N/A N Y Structure indicated.

- N/A N Y Interior partitions shown in section.
- N/A N Y Roof sloped for roof drainage.
- N/A N Y Relationships of adjoining building areas beyond.

**Interior Elevations**

- N/A N Y Height indicated of all fixtures.
- N/A N Y Millwork doors swings and drawers located.
- N/A N Y Fixed equipment shown with relationships to building components.
- N/A N Y Glazing in walls, doors, etc. (Generally all horizontal dimensions appear on plan and all vertical dimensions, (i.e.: mounting heights, etc.) on interior elevations.

**Vertical Transportation Section and Details**

- N/A N Y Draw sections through stairs, elevator shafts, conveying systems, dumbwaiters, etc.
- N/A N Y Show handrails (see handicap requirements), nosing, finish of treads, risers, stringers, wall, ceilings, etc. In non-public spaces comply with NFPA 101 for handrail spacing requirements.

**Wall Sections and Details**

- N/A N Y Waterproofing and Damproofing for openings.
- N/A N Y Drips for projections.
- N/A N Y Coordinated with structural.
- N/A N Y Show foundation type and correct size coordinated with structural drawings.
- N/A N Y Protection system for void space below grade beams.

**Millwork and Casework**

- N/A N Y Enlarged plans, elevations and details.

**Equipment/ Processing Equipment**

- N/A N Y Layouts and coordination with all documents.

**Fire Protection Plans**

- N/A N Y Layouts and coordination with all documents.
- N/A N Y MEP Site Plan: MEP background plans coordinated to Architectural. Include chilled water, heating water, steam, condensate, gas, fuel oil and diesel piping and equipment, telephone, street lighting, and electrical power system. Show location of all connection points. This plan may share information between plumbing and mechanical trades if info density reads clearly and is graphically correct.

**Mechanical:**

- N/A N Y Flow diagrams (air and water) w/controls. Line sizes shown by line type.

N/A	N	Y	Floor plans (Dimensioned location of all equipment including control panels, air compressor, panels, air compressor, and drier locations. Except for flex duct, all A/C ducts shall be shown by double line).
N/A	N	Y	Roof Plan (may be combined with plumbing).
N/A	N	Y	Elevations and Sections.
N/A	N	Y	Enlarged Plans 1/4" scale minimum (all mechanical rooms and congested areas, such as duct, pipe and conduit routing above ceiling).
N/A	N	Y	Details.
N/A	N	Y	Schedules (all mechanical equipment, including individual VAV Boxes and Control Valves).
N/A	N	Y	Legend to symbols used.

**Control Schematic Diagram(s): shall show location and sequencing of controls.**

N/A	N	Y	Door Controls.
N/A	N	Y	Security Controls.
N/A	N	Y	Fire Alarm Controls.
N/A	N	Y	Alarm annunciator panels.

**Plumbing: (sewers, domestic hot water and cold water and fire water standpipes, and water)**

N/A	N	Y	Under floor plan.
N/A	N	Y	Floor plans.
N/A	N	Y	Roof plan (may be combined with Mechanical).
N/A	N	Y	Riser diagrams.
N/A	N	Y	Details.
N/A	N	Y	Schedules.

**Fire protection: (May be included in Plumbing, if only FHC and standpipes are required)**

N/A	N	Y	Fire Protection Plan - FHC (including pipe sizes, distribution pipe locations and hose cabinet locations).
N/A	N	Y	Fire Protection Plan - Sprinklered buildings (including riser and valving assemblies; riser into building; specification for appropriate NFPA sprinkler type; and specification/ drawing info regarding shop drawings and installation by a contractor licensed in Texas.).
N/A	N	Y	Details.
N/A	N	Y	Risers diagrams.

**Electrical:**

N/A	N	Y	Lighting plan.
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N/A	N	Y	Power plan.
N/A	N	Y	Security and communications plans.
N/A	N	Y	One line diagrams.
N/A	N	Y	Medium voltage distribution diagrams.
N/A	N	Y	Riser diagrams.
N/A	N	Y	Schedules (panel boards, variable frequency controllers, motor control centers, etc.)
N/A	N	Y	Details.

**Special systems:**

N/A	N	Y	Communications (security, telephone, CCTV, computers, paging, etc.).
N/A	N	Y	Fire alarm system.

Drawing General Information - (all sheets):

Sheet title (drawing and project).

Sheet number of total number of sheets.

Project number (if assigned)

Date (month, day and year). Should agree with specifications when drawings are officially completed.

Temporary date should be added for review sets.

Drawn by \_\_\_\_\_ (before submitting to TJJJ Construction Department).

Checked by \_\_\_\_\_ (before submitting to TJJJ Construction Department).

All detail numbers are in sequence.

Responsible Architect's and/or Engineer's registration seal, date and signature on all sheets (see Architectural and Engineering Registration Rules and Regulations). Review sets when not sealed must have the Responsible Architect's and/or Engineer's name, registration number, "Architect" or "P.E." designation, date and clearly labeled for "Design Review Only" on each drawing, except cover sheet.

Project (Plan North) and Magnetic North on all plans.

Indicate project bidding alternates, as applicable.

**SPECIFICATIONS:**

Specifications for all divisions of work shall be accurate, complete, thorough in all respects, explicit, and well-coordinated between all sections of the Specifications with Drawings and in accordance with the highest standards of the profession (CSI format shall be used).

The DP shall verify the table of contents with the Design Coordinator prior to preparing specifications. The Construction Department maintains a master numbering system for specification sections. The DP shall use this numbering system where applicable to the project. However, should a new section of specifications be required (that is not contained in the master numbering list), the DP shall obtain an assigned number for that section of the specifications from the Design Coordinator. Details and schedules shall be shown on the drawings and not in the specifications.

**DOCUMENT PREPARATION:**

The DP shall produce all drawings on a CADD system, fully compatible with the Auto CAD release 11, or latest version of software program. Files shall include unpurged, non-exploded symbols with Attributes editable. Drawings shall be produced utilizing short format layering standards of the latest AIA CAD Layer Guidelines prepared by the American Institute of Architects. The DP shall provide the owner a file copy of the project with all files specific to the Project File to insure the owner's ability to access the file. The DP shall produce all specifications (project manual) on a word processing computer program fully compatible with the Microsoft Word Software. All files required above shall be furnished to the Owner on CDs. The DP shall prepare a CAD instructions which will provide necessary information and general instructions to allow

the owner to effectively access and utilize the CAD files for basic file viewing, alteration and plotting procedures. The CAD Instructions shall also contain file names required for each drawing, the layers for each sheet and information contained on each layer.

**COPIES OF DRAWINGS:**

The DP shall provide 3 sets of hardcopy bidding documents in 24" x 36" size (preferred) and electronic versions in both PDF and AutoCad format. Sheet numbering shall use a prefix of C (civil), A (architectural), S (structural), M (mechanical), E (electrical), and P (plumbing).

The following numbering system is an architectural category based numbering system and should be followed for Civil, Mechanical, Electrical and Plumbing. Thus when sheet 2.2 is referenced, regardless of whether Mechanical, Electrical, Plumbing or Architectural, this plan will always be the large scale plan information. The DP may deviate from this sheet numbering list if Design Coordinator is advised and approval given.

T1.0 Cover Sheet (with sign-off approval of Construction Department)

T1.1 Standards, Index to Drawings, Texas, Area and Site location plans.

**A1.0 GENERAL SITE INFORMATION**

A1.0 Site Information

A1.1 thru A1.xx General Site details

**A2.0 GENERAL PLAN INFORMATION**

A2.0 Floor Plan - small scale plans

A2.1 Room Finish Schedule

A2.2 thru A2.xx large scale plans

**A3.0 EXTERIOR ELEVATION INFORMATION**

A3.0 Exterior Elevations

A3.1 thru A3.xx Exterior Elevation Info

**A4.0 BUILDING SECTION - SMALL SCALE VERTICAL INFO**

A4.0 Building Sections

A4.1 thru A4.xx Vertical Section Info

**A5.0 WALL SECTION - LARGE SCALE VERTICAL INFO**

A5.0 Wall Sections

A5.1 thru A5.xx Enlarged Vertical Section Info

**A6.0 DOOR & WINDOW SCHEDULES AND DETAILS**

A6.0 Door Schedules & Window Schedules

A6.1 thru A6.xx Door and Window details/ Info

**A7.0 PARTITION TYPE CONSTRUCTION**

A7.0 Partition Types

A7.1 thru A7.xx Partition Enlarged Details

**A8.0 PLAN SECTIONS- ENLARGED PLAN/PARTITION INFO**

A8.1 thru A8.xx Plan details

**A9.0 INTERIOR ELEVATION INFO**

A9.0 thru A9.xx Interior Elevations

**A10.0 REFLECTED CEILING INFO**

A10.0 thru A10.xx

**A11.0 ROOF PLAN INFO**

A11.0 thru A11.xx Roof Plans and Details

**EXHIBIT N - HOURLY RATE SCHEDULE  
AND  
ADDITIONAL COST SCHEDULE FOR BILLING**

	Position TYPE	HOURLY RATE	UNIT	MAXIMUM COST
1	Principal	\$275.00		
2	Project Manager	\$200.00		
3	QA/QC	\$200.00		
4	Task Order Manager	\$175.00		
5	Senior Level Civil Engineer (PE)	N/A		
6	Mid Level Civil Engineer (PE)	N/A		
7	Junior Level Civil Engineer (EIT)	N/A		
8	Senior Level Structural Engineer (PE)	N/A		
9	Mid Level Structural Engineer (PE)	N/A		
10	Junior Level Structural Engineer (EIT)	N/A		
11	Senior Level Mechanical / Electrical Engineer (PE)	\$200.00		
12	Mid Level Mechanical / Electrical Engineer (PE)	\$175.00		
13	Junior Level Mechanical / Electrical Engineer (EIT)	\$140.00		
14	Senior Architect (AIA or RA)	\$201.95		
15	Mid Level Architect (AIA or RA)	\$110.76		
16	Junior Architect	N/A		
17	Sr. Level Landscape Architect / Planner (RLA or AICP)	N/A		
18	Mid Level Landscape Architect / Planner	N/A		
19	Jr. Level Landscape Architect / Planner	N/A		
20	Sr. Environmental Specialist	N/A		
21	Mid Level Environmental Specialist	N/A		
22	Jr. Environmental Specialist	N/A		
23	Senior GIS Specialist / Remote Sensing	N/A		
24	Mid Level GIS Specialist / Remote Sensing	N/A		
25	Junior GIS Specialist / Remote Sensing	N/A		
26	Surveyor, RPLS	N/A		
27	Survey Technician (office)	N/A		
28	Survey Crew (Party Chief)	N/A		
29	Survey Crewperson	N/A		
30	Senior Field Representative - Construction Phase	\$160.00		
31	Junior Field Representative - Construction Phase	\$130.00		
32	Sr. CADD Specialist	\$140.00		
33	Mid Level CADD Specialist	\$110.00		
34	Jr. CADD Specialist	\$95.00		
35	Clerical /Administrative	\$90.00		
36	Web Technologist	N/A		
37	Senior Graphic Designer	N/A		
38	Junior Graphic Designer	N/A		
39	Specification Writer	N/A		
40	Cost Estimator	N/A		
41	Project Manager	N/A		
42	Project Design Engineer	N/A		
43	Project Engineer	N/A		
44	Job Captain	N/A		
45	Senior Draftsman	N/A		
46	Senior Specification Writer	N/A		
47	Specification Writer	N/A		
48	Technical Typist	N/A		
49	Junior Draftsman	N/A		
50	Quality Manager	N/A		
51	Engineer-in-Training	\$125.00		
52	Senior Engineer Tech	\$165.00		
53	Engineer Tech	\$130.00		
54	Junior Engineer Tech	\$115.00		
55	Senior Architect	N/A		
56	Project Architect (Architect III)	N/A		
57	Design Architect (Architect II)	N/A		
58	Intern Architect (Architect I)	N/A		
59	Senior Structural Engineer	\$200.00		
60	Project Structural Engineer	\$160.00		
61	Senior CADD Operator	N/A		
62	CADD Operator	N/A		
63	Junior CADD Operator	N/A		
64	Senior Construction Inspector	N/A		
65	Admin/Clerical	N/A		
	<b>TOTAL</b>	\$3,297.71		

	ADDITIONAL COST SCHEDULE	N/A	UNIT	MAXIMUM COST
66	Lodging/Hotel	N/A	Day/person	Current State Rate
67	Lodging/Hotel Taxes/fees		Day/person	Current State Rate
68	Meals		Day/person	Current State Rate
69	Mileage		Mile	Current State Rate
70	Rental Car (Includes taxes and fees; Insurance costs will not be reimbursed)		Day	\$100.00
71	Rental Car Fuel		Per gallon	\$3.50
72	Air Travel Use with Indefinite Deliverable Contracts		Rd Trip/person	Coach Fare
73	Air Travel - In State - Short Notice (Coach)		Rd Trip/person	Coach Fare
74	Air Travel - In State - 2+ Wks Notice (Coach)		Rd Trip/person	Coach Fare
75	Parking day		Day	\$30.00
76	Toll Charges		Each	\$10.00
77	Taxi/Cab fare		Each/Person	\$30.00
78	Standard Postage letter		Letter	Current Postal Rate
79	Overnight Mail - letter size		Each	N/A
80	Overnight Mail - oversized box		Each	N/A
81	Courier Services		Each	N/A
82	Photocopies B/W (8 1/2" X 11")		Each	N/A
83	Photocopies B/W (11" X 17")		Each	N/A
84	Photocopies Color (8 1/2" X 11")		Each	N/A
85	Photocopies Color (11" X 17")		Each	N/A
86	Digital Ortho Plotting		Square Foot	N/A
87	Plots (B/W on Bond)		Square Foot	N/A
88	Plots (Color on Bond)		Square Foot	N/A
89	Plots (Color on Photographic Paper)		Square Foot	N/A
90	Color Graphics on Foam Board		Square Foot	N/A
91	Presentation Boards 30" X 40" Color Mounted		Each	N/A
92	Outside Printing - Reports	Each	N/A	
93	Report Binding	Each	N/A	
94	Notebooks	Each	N/A	
95	Reproduction of CD/DVD/Flash Drive	Each	N/A	
96	CDs	Each	N/A	
97	4" X 6" Digital Color Print	Picture	N/A	
98	GPS Receiver	Hour	N/A	
99	Robotic Total Station	Day	N/A	
100	GPS RTK	Hour	N/A	
101	GPS Static	Hour	N/A	
NOTE: Any items listed under additional cost schedule (line items 66-101) must be approved by TJJJ or agreed upon between TJJJ and the Contractor prior to billing.			TOTAL	\$173.50
			Hourly Rate Schedule Total	\$3,297.71
			Additional Cost Schedule	\$173.50
			Grand Total	\$3,471.21

**EXHIBIT O**  
**TERMS AND CONDITIONS**

**1. Americans with Disabilities Act and Equal Employment Opportunity**

Service Provider represents and warrants its compliance with the requirements of the Americans with Disabilities Act (ADA) and its implementing regulations, as each may be amended.

**2. Antitrust Affirmation**

The undersigned affirms under penalty of perjury of the laws of the State of Texas that (1) in connection with this Response, neither I nor any representative of the Service Provider have violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15; (2) in connection with this Response, neither I nor any representative of the Service Provider have violated any federal antitrust law; and (3) neither I nor any representative of the Service Provider have directly or indirectly communicated any of the contents of this Response to a competitor of the Service Provider or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Service Provider.

**3. Assignment**

Service Provider shall not assign its rights under the contract or delegate the performance of its duties under the contract without prior written approval from TJJD. Any attempted assignment in violation of this Section is void and without effect.

**4. INTENTIONALLY LEFT BLANK**

**5. Buy Texas Affirmation**

In accordance with Section 2155.4441 of the Texas Government Code, Service Provider agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.

**6. Change in Law and Compliance with Laws**

Any alterations, additions, or deletions to the terms of the contract that are required by changes in federal or state law or regulations are automatically incorporated into the contract without written amendment hereto, and shall become effective on the date designated by such law or by regulation.

**7. Child Support Obligation Affirmation, Section 231.006, Texas Family Code**

**Under Section 231.006, Family Code, the vendor or applicant [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.** A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application. **FEDERAL PRIVACY ACT NOTICE:** This notice is given pursuant to the Federal Privacy Act. Disclosure of your Social Security Number (SSN) is required under Section 231.006(c) and Section 231.302(c)(2) of the Texas Family Code. The SSN will be used to identify persons that may owe child support. The SSN will be kept confidential to the fullest extent allowed under Section 231.302(e), Texas Family Code.

**8. INTENTIONALLY LEFT BLANK**

**9. Compliance with Section 572.054, Texas Government Code, Former Officer or Employee of TJJD**

Service Provider certifies compliance with Texas Government Code Section 572.054. Service Provider has not employed a former officer or employee of TJJD to perform services on Service Provider's behalf, to secure the contract, or to represent Service Provider in any manner prohibited by Section 572.054. A false certification could result in termination of this contract, withholding of payments, or other sanctions.

**10. Compliance with the Prison Rape Elimination Act of 2003 (PREA)**

Service Provider shall comply with the Prison Rape Elimination Act of 2003 (PREA) (34 U.S.C. 30301 et seq.) and with all applicable standards, rules, regulations, and TJJD policies related to PREA. Service Provider shall make itself familiar with and at all times shall observe and comply with all PREA regulations which affect performance in any

manner under this contract. Failure to comply with PREA standards, rules, regulations, and TJJD policies may result in termination of this contract.

## **11. INTENTIONALLY LEFT BLANK**

### **12. Confidentiality and Security**

**Section 1:** Service Provider agrees that all of its employees, contractors, subcontractors, or associates will comply with all state and federal law and with TJJD policies regarding maintaining the confidentiality of TJJD youth, including, but not limited to, maintaining confidentiality of student records and identifying information.

**Section 2:** Service Provider agrees that all information regarding TJJD and/or its youth that is gathered, produced, or otherwise derived from this contract shall remain confidential and subject to release only by permission of TJJD.

**Section 3:** Service Provider employees, contractors, subcontractors, or associates 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 Service Provider without the written consent of TJJD, of the youth and, if under age 18, of the youth's parent, guardian, or managing conservator.

### **13. Contract Amendment and Merger Clause**

This contract encompasses the complete and entire agreement of the parties. Neither party has made nor relied on any representations, stipulations, or agreements other than those expressly contained in this contract. No other contracts or agreements, 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 TJJD contract identification number, or increase the "not to exceed" amount (if applicable) necessary for continuation of services.

### **14. Contracting Information Responsibilities**

In accordance with Section 552.372 of the Texas Government Code, Service Provider agrees to (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the TJJD for the duration of the contract, (2) promptly provide to the TJJD any contracting information related to the contract that is in the custody or possession of the Service Provider on request of the TJJD, and (3) on termination or expiration of the contract, either provide at no cost to the TJJD all contracting information related to the contract that is in the custody or possession of the Service Provider or preserve the contracting information related to the contract as provided by the records retention requirements applicable to the TJJD. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552, Government Code, may apply to the contract and the Service Provider agrees that the contract can be terminated if the Service Provider knowingly or intentionally fails to comply with a requirement of that subchapter

### **15. COVID-19 Vaccine Passport Prohibition**

Service Provider certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Service Provider's business. Service Provider acknowledges that such a vaccine or recovery requirement would make Service Provider ineligible for a state-funded contract.

### **16. Critical Infrastructure Affirmation and Subcontracts**

Pursuant to Government Code Section 2274.0102, Service Provider certifies that neither it nor its parent company, nor any affiliate of Service Provider or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2274.0103, or (2) headquartered in any of those countries. For purposes of this Paragraph, the designated countries are China, Iran, North Korea, Russia, and any countries lawfully designated by the Governor as a threat to critical infrastructure.

Pursuant to Section 113.002 of the Business and Commercial Code, Service Provider shall not enter into a subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business and Commerce Code, in this state, other than access specifically allowed for product warranty and support purposes to any subcontractor unless (i) neither the subcontractor nor its parent

company, nor any affiliate of the subcontractor or its parent company, is majority owned or controlled by citizens or governmental entities of a designated country; and (ii) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is headquartered in a designated country. Service Provider will notify the TJJJ before entering into any subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business & Commerce Code, in this state.

#### **17. INTENTIONALLY LEFT BLANK**

#### **18. Damage to Government Property**

Service Provider shall be liable for all damage to government-owned, leased, or occupied property and equipment caused by the Service Provider and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the contract. Service Provider shall notify the TJJJ in writing of any such damage within one (1) calendar day. Service Provider is responsible for the removal of all debris resulting from work performed under the contract.

#### **19. INTENTIONALLY LEFT BLANK.**

#### **20. Dealings with Public Servants Affirmation**

Pursuant to Section 2155.003 of the Texas Government Code, Service Provider represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Response.

#### **21. Debts and Delinquencies Affirmation**

Service Provider agrees that any payments due under the contract shall be directly applied towards eliminating any debt or delinquency it has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support.

#### **22. Disaster Recovery Plan**

In accordance with 13 TAC § 6.94(a)(9), Service Provider shall provide to TJJJ the descriptions of its business continuity and disaster recovery plans if it has or is to have custody of vital state records.

#### **23. INTENTIONALLY LEFT BLANK**

#### **24. Disentanglement Services**

(a) The following definitions are incorporated into the contract and relevant to this Article:

- (1) **Disentanglement Period** - the period of time during and after the contract terminates that is necessary to provide disentanglement services.
- (2) **Disentanglement Services** - the obligations of each party imposed upon notice of contract termination or expiration that are designed to extract and protect proprietary data, databases, and structure.

(b) Service provider must provide disentanglement services as soon as possible after Notice of Contract Termination or contract expiration. The disentanglement period shall be for one month unless otherwise agreed upon. If disentanglement services cannot be completed during the agreed disentanglement period, Service provider must notify TJJJ in writing 14 days before the end of the disentanglement period and must include an explanation of the cause for delay and a proposed timeframe for completion.

(c) Disentanglement services that Service provider must provide include: (1) Up-to-date documentation of data format and structure; and (2) documentation of what, if any, of Service provider's proprietary information is embedded within TJJJ data. Service provider should also provide TJJJ with their proprietary data in the same format and structure as used in Service provider's system before Contract Termination. If Service provider is unwilling to provide data in the same format and structure, then Service provider must work with TJJJ or a 3rd party of TJJJ's choice to provide the data and appropriate documentation in an acceptable alternate format agreed to by TJJJ. After completion of the aforementioned obligations, TJJJ shall continue to allow Service provider access to its shared servers so Service provider may uninstall their software, databases, and proprietary data and

information. After removal of all proprietary data, Service provider shall confirm removal with written certification of such.

(d) Both parties shall have full access to shared servers, including source code and technical documentation, during the disentanglement period. If any disagreement between the parties arises before disentanglement services are completed, both parties shall continue to have full access while seeking resolution.

(e) Confidentiality requirements, restrictions on use of data, and intellectual property rights described in the contract remain effective until disentanglement services are completed.

## **25. Dispute Resolution**

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute arising under the contract.

## **26. Dispute Resolution**

Subject to Texas Government Code, Section 2260.002, the dispute resolution process provided for in Chapter 2260 of the Texas Government Code and set forth below in subsections (a)-(d) shall be used by the parties to attempt to resolve all disputes arising under this contract. In accordance with the Texas Civil Practice and Remedies Code, Section 114.005, the parties agree claims encompassed by Texas Government Code, Section 2260.002(3) and Texas Civil Practice and Remedies Code Section 114.002 shall be governed by the dispute resolution process set forth below in subsections (a)- (d).

- (a) Notwithstanding Texas Government Code, Chapter 2260.002(3) and Chapter 114.012 and any other statute or applicable law, if the Service Provider's claim for breach of contract cannot be resolved by the parties in the ordinary course of business, Service Provider may make a claim against TJJD for breach of contract and the TJJD may assert a counterclaim against the Service Provider as is contemplated by Texas Government Code, Chapter 2260, Subchapter B. In such event, Service Provider must provide written notice to TJJD of a claim for breach of the contract not later than the 180th day after the date of the event giving rise to the claim. The notice must state with particularity: (1) the nature of the alleged breach; (2) the amount the Service Provider seeks as damages; and (3) the legal theory of recovery.
- (b) The chief administrative officer, or if designated in the contract, another officer of the TJJD, shall examine the claim and any counterclaim and negotiate with the Service Provider in an effort to resolve them. The negotiation must begin no later than the 120th day after the date the claim is received, as is contemplated by Texas Government Code, Chapter 2260, Section 2260.052.
- (c) If the negotiation under paragraph (b) above results in the resolution of some disputed issues by agreement or in a settlement, the parties shall reduce the agreement or settlement to writing and each party shall sign the agreement or settlement. A partial settlement or resolution of a claim does not waive a party's rights under this contract as to the parts of the claim that are not resolved.
- (d) If a claim is not entirely resolved under paragraph (b) above, on or before the 270th day after the date the claim is filed with TJJD, unless the parties agree in writing to an extension of time, the parties may agree to mediate a claim made under this dispute resolution procedure. This dispute resolution procedure is the Service Provider's sole and exclusive process for seeking a remedy for an alleged breach of contract by the TJJD if the parties are unable to resolve their disputes as described in this section.
- (e) Nothing in the contract shall be construed as a waiver of the state's or the TJJD's sovereign immunity. This contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under this contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies or immunities or be considered as a basis for estoppel. TJJD does not waive any privileges, rights, defenses, or immunities available to TJJD by entering into this contract or by its conduct, or by the conduct of any representative of TJJD, prior to or subsequent to entering into this contract.
- (f) Compliance with the dispute resolution process provided for in Texas Government Code, Chapter 2260, subchapter B and incorporated by reference in subsection (a)-(d) above is a condition precedent to the Service Provider:
  - (1) filing suit pursuant to Chapter 114 of the Civil Practices and Remedies Code; or
  - (2) initiating a contested case hearing pursuant to Subchapter C of Chapter 2260 of the Texas Government Code.

## **27. Drug-Free Workplace**

Service Provider represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. § 701 et seq.) and maintain a drug-free work environment.

### **28. E-Verify Program**

Service Provider certifies that for contracts for services, Service Provider shall utilize the U.S. Department of Homeland Security's E-Verify system (E-Verify) during the term of the contract to determine the eligibility of:

1. all persons employed by Service Provider to perform duties within Texas; and
2. all persons, including subcontractors, assigned by Service Provider to perform work pursuant to the contract within the United States of America.

Service Provider shall provide, upon written request by the TJJD, an electronic or hard copy screenshot of the confirmation that Service Provider is enrolled in E-Verify. Service Provider shall provide, upon written request by the TJJD, an electronic or hard copy of the confirmation or non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for each Service Provider employee, subcontractor, and subcontractor employee that meet the criteria above, following any required E-Verify protocols to allow for the provision of such information.

If it is determined that Service Provider has violated the certifications set forth in this provision, then (1) Service Provider shall be in breach of contract, (2) TJJD shall have the option to terminate the contract for cause without prior notice, and (3) in addition to any other rights or remedies available to TJJD under the contract, Service Provider shall be responsible for all costs incurred by TJJD to obtain substitute services to replace the terminated contract.

### **29. Energy Company Boycotts**

If Service Provider is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Service Provider verifies that Service Provider does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Service Provider does not make that verification, Service Provider must so indicate in its Response and state why the verification is not required.

### **30. Entities that Boycott Israel**

Pursuant to Section 2271.002 of the Texas Government Code, Service Provider certifies that either (i) it meets an exemption criteria under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Service Provider shall state any facts that make it exempt from the boycott certification in its Response.

### **31. Equal Employment Opportunity**

Service Provider represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

### **32. Excess Obligations Prohibited - Funding Out Clause**

The contract is subject to termination or cancellation, without penalty to TJJD, either in whole or in part, subject to the availability of state funds.

### **33. Excluded Parties**

Service Provider certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.

### **34. Executive Head of a State Agency Affirmation**

In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Service Provider certifies that it is not (1) the executive head of TJJD, (2) a person who at any time during the four years before the date of the contract was the executive head of the TJJD, or (3) a person who employs a current or former executive head of TJJD.

### **35. False Statements**

Service Provider represents and warrants that all statements and information prepared and submitted in this document are current, complete, true, and accurate. Submitting a Response with a false statement or material

misrepresentations made during the performance of a contract is a material breach of contract and may void the submitted Response and any resulting contract.

### **36. 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 federal confidentiality regulations. Said regulations apply only to programs that are federally assisted either directly or indirectly. Service Provider certifies compliance with these federal requirements for confidentiality (42 USC 290dd-2; 42 CFR Part 2) and agrees to comply with said requirements for so long as this contract is in force.

### **37. Financial Participation Prohibition Affirmation**

Under Section 2155.004, Government Code, the vendor [Service Provider] certifies that the individual or business entity named in this bid [Response] 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.

### **38. Fingerprinting and Background Check**

#### **A. Unless Service Provider is addressed in Section B below, Service Provider shall:**

1. As directed, provide information regarding persons providing services under this contract with access to TJJD youth or youth records for a criminal background checks, which may include fingerprinting, criminal records check, sex offender registration records check, PREA employment standards check, child abuse registry check, and drug test. Criminal background checks shall be conducted at TJJD's expense. Any Service Provider employee, agent, consultant, subcontractor, subcontractor employee, or volunteer worker who is unwilling to provide or who does not provide required information will not be allowed to work under this contract. Any Service Provider employee, agent, consultant, subcontractor, subcontractor employee, or volunteer worker shall not work under this contract until the criminal background check is completed and approval is obtained from TJJD's Director of Human Resources.
2. Notify TJJD's Director of Human Resources of any employee, agent, consultant, subcontractor, subcontractor employee, or volunteer worker who works with TJJD youth and who is arrested, indicted, or charged with a criminal offense or who resigns while under investigation for inappropriate conduct or policy violations. Such employee, agent, consultant, subcontractor, subcontractor employee, or volunteer worker shall be immediately suspended from working under this contract unless authorized by TJJD's Director of Human Resources.

#### **B. Service Provider Licensed by the Texas Department of Family and Protective Services**

1. Employees, contractors (including subcontractors), or volunteers who provide services in a facility that contracts to accept TJJD youth and that is licensed by the Department of Family and Protective Services (DFPS) must, in order to work with TJJD youth, obtain clearance under DFPS background check rules. Further:
  - a. Service Provider must provide sufficient information to allow TJJD to verify DFPS clearance; and
  - b. Service Provider must notify TJJD's Director of Human Resources **within 24 hours** of learning of the arrest of any employee, contractor (including subcontractor), or volunteer.

#### **C. TJJD Approval**

TJJD will approve or deny any Service Provider employee, agent, consultant, subcontractor, subcontractor employee, or volunteer worker in accordance with TJJD policies and procedures. TJJD's designated contact for criminal background checks is the Human Resources Department, Manager of Criminal Background Checks, (512) 490-7674.

### **39. Firearm Entities and Trade Association Discrimination**

If Service Provider is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Service Provider verifies that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. If Service Provider does not make that verification, Service Provider must so indicate in its Response and state why the verification is not required.

### **40. Foreign Terrorist Organizations**

Section 2252.152 of the Texas Government Code prohibits TJJD from awarding a contract to any person who does business with Iran, Sudan, or a foreign terrorist organization as defined in Section 2252.151 of the Texas Government Code. Service Provider certifies that it is not ineligible to receive the contract.

#### **41. Former Agency Employees**

Service Provider represents and warrants that none of its employees including, but not limited to, those authorized to provide services under the contract, were former employees of TJJD during the twelve (12) month period immediately prior to the date of execution of the contract.

#### **42. Franchise Taxes**

**Section 1:** Service Provider certifies that should Service Provider 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 sanctions may be exercised.

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

**Section 3:** If Service Provider's payment of Texas franchise taxes becomes delinquent during the term of this contract, Service Provider will notify TJJD within twenty-four (24) hours. If such delinquency cannot be cured within twenty-four (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 sanctions may be exercised under the provisions of this contract.

#### **43. Governing Law and Venue**

The contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to TJJD.

#### **44. Human Trafficking Prohibition**

**Under Section 2155.0061, Government Code, the vendor [Service Provider] certifies that the individual or business entity named in this bid [Response] 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.**

#### **45. Indemnification**

**SERVICE PROVIDER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND TJJD, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF SERVICE PROVIDER OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY SERVICE PROVIDER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SERVICE PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. SERVICE PROVIDER AND TJJD AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

#### **46. Indemnification**

**SERVICE PROVIDER SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND TJJD, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY FEES, AND EXPENSES TO THE EXTENT CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILLFUL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY, AND/OR OTHERWISE RELATED TO SERVICE PROVIDER'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE SERVICE PROVIDER OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO SERVICE PROVIDER, OR ANY OTHER ENTITY OVER WHICH THE CONTRACTOR EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY SERVICE PROVIDER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SERVICE PROVIDER MAY NOT AGREE TO ANY SETTLEMENT**

**WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. SERVICE PROVIDER AND TJJD AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

#### **47. INTENTIONALLY LEFT BLANK**

#### **48. Independent Contractor - Relationship of the Parties**

Service Provider and Service Provider's employees, representatives, agents, subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the contract. Neither Service Provider nor TJJD is an agent of the other and neither may make any commitments on the other party's behalf. Should Service Provider subcontract any of the services required in the contract, Service Provider expressly understands and acknowledges that in entering into such subcontract(s), TJJD is in no manner liable to any subcontractor(s) of Service Provider. In no event shall this provision relieve Service Provider of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the contract. Service Provider shall have no claim against TJJD for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The contract shall not create any joint venture, partnership, agency, or employment relationship between Service Provider and TJJD.

#### **49. Insurance**

**Section 1:** Service Provider shall maintain liability insurance in the amount of \$1,000,000.00 for each occurrence of negligence. The insurance must also cover injury to a youth that occurs when the youth is in Service Provider's care, custody, or control.

**Section 2:** Service Provider shall provide the TJJD Contracts Department proof of insurance listing TJJD as an additional insured upon contract execution, upon insurance renewal if coverage expires during the contract term (including contract extensions, if any), and upon request.

**Section 3:** The required insurance coverage, in the above-stated amount, must be maintained during the term of this contract and through any subsequent extensions. Failure to maintain the required insurance coverage may result in termination of this contract or sanctions.

#### **50. Legal and Regulatory Action**

Service Provider represents and warrants that it is not aware of and has received no notice of any court or governmental agency actions, proceedings or investigations, etc., pending or threatened against Service Provider or any of the individuals or entities included in the Response within the five (5) calendar years immediately preceding the submission of the Response that would or could impair Service Provider's performance under the contract, relate to the solicited or similar goods or services, or otherwise be relevant to TJJD's consideration of the Response. If Service Provider is unable to make the preceding representation and warranty, then Service Provider instead represents and warrants that it has included as a detailed attachment in its Response a complete disclosure of any such court or governmental agency actions, proceedings or investigations, etc. that would or could impair Service Provider's performance under the contract, relate to the solicited or similar goods or services, or otherwise be relevant to TJJD's consideration of the Response. In addition, Service Provider represents and warrants that it shall notify TJJD in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update TJJD shall constitute breach of contract and may result in immediate termination of the contract.

#### **51. Limitation on Authority**

Service Provider shall have no authority to act for or on behalf of TJJD or the State of Texas except as expressly provided for in the contract; no other authority, power or use is granted or implied. Service Provider may not incur any debt, obligation, expense or liability of any kind on behalf of TJJD or the State of Texas.

#### **52. Lobbying Prohibition**

Service Provider represents and warrants that TJJD's payments to Service Provider and Service Provider's receipt of appropriated or other funds under the contract are not prohibited by Sections 556.005 or 556.0055 of the Texas Government Code.

#### **53. Media Releases**

Service Provider shall not use TJJD's name, logo, or other likeness in any press release, marketing material, or other announcement without TJJD's prior written approval. TJJD does not endorse any vendor, commodity, or

service. Service Provider is not authorized to make or participate in any media releases or public announcements pertaining to this procurement, the Response or the services to which they relate without TJJD's prior written consent, and then only in accordance with explicit written instructions from TJJD.

**54. No Conflicts of Interest**

Service Provider represents and warrants that the provision of goods and services or other performance under the contract will not constitute an actual or potential conflict of interest or reasonably create the appearance of impropriety. Service Provider has disclosed in writing to TJJD all existing or potential conflicts of interest relative to the performance of the contract. And if circumstances change during the course of the contract, Service Provider shall promptly notify TJJD.

**55. No Implied Waiver**

The failure of a party to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power, or remedy contained in the contract shall not be construed as a waiver or a relinquishment thereof for the future.

**56. No Quantity Guarantees**

TJJD makes no express or implied warranty whatsoever that a minimum compensation or minimum quantity will be guaranteed under this contract.

**57. No Third-Party Beneficiaries**

The contract is made solely and specifically among and for the benefit of the parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the contract as a third-party beneficiary or otherwise.

**58. Notice**

Any written notice required under this contract will be either through hand delivery or by U.S. Mail, certified, return receipt requested, to Service Provider at the address indicated on page 1 of the contract and to TJJD at Texas Juvenile Justice Department, Office of General Counsel, P.O. Box 12757, Austin, Texas 78711-2757 or 1711 San Jacinto Blvd., Austin Texas 78701.

**59. Notice of Changes**

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

**Section 2:** Service Provider 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:** Service Provider shall not relocate the services provided under this contract from the location stated in the preamble, if applicable, without prior written approval from TJJD and a certification that the location to which services are to be relocated is in compliance with Chapter 244, Texas Local Government Code, if applicable.

**60. Permits, Certifications, and Licenses**

Service Provider represents and warrants that it has determined what licenses, certifications, and permits are required under the contract and has acquired all applicable licenses, certifications, and permits and shall maintain them as necessary throughout the term of the contract.

**61. Prior Disaster Relief Contract Violation**

Under Sections 2155.006 and 2261.053 of the Texas Government Code, the Service Provider certifies that the individual or business entity named in this Response 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.

**62. Prompt Payment**

Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

**63. Public Information Act**

Information, documentation, and other material in connection with this Solicitation or any resulting contract may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act"). In accordance with Section 2252.907 of the Texas Government Code, Service Provider is required to make any information created or exchanged with the State pursuant to the 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 the State.

#### **64. Problem Solving in the Ordinary Course of Business**

**Section 1:** The parties to the contract shall use the procedures contained in this provision 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 the contract, the dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used.

**Section 2:** Informal Resolution: Service Provider and TJJJ 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, Service Provider and TJJJ staff are encouraged to utilize the following mechanism to resolve problems.

**Section 3:** Formal Resolution:

- a. Service Provider or TJJJ staff who wish to submit problems for resolution may do so in writing, including all relevant information and a recommended resolution (Statement of Problem).
- 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 to be addressed within ten (10) working days; a written decision will be sent to the individual or program that submitted it, with copies retained by the designated contact and the designated contact's supervisor.

**Section 4:** Appeal: Service Provider or TJJJ staff desiring to appeal the decision may do so in writing, within ten (10) working days from the date of written decision, by providing all pertinent information relevant to the appeal to the designated contact's supervisor if the problem was originally addressed by the designated contact, or to TJJJ's Office of General Counsel if the problem was addressed by the designated contact's supervisor. When appealed, the problem shall be addressed within fourteen (14) working days, with written responses sent to the individual or program who submitted it, and copies retained by the designated contact, the designated contact's supervisor, and TJJJ's Office of General Counsel.

#### **65. Property Rights**

For purposes of the contract, the term "Work" is defined as all work papers, work products, materials, approaches, designs, specifications, systems, software, programs, source code, documentation methodologies, concepts, intellectual property or other property developed, produced or generated in connection with the services provided under the contract. Agency and Service Provider intend this agreement to be a contract for the services and each considers the Work and any and all documentation or other products and results of the services to be rendered by Service Provider to be a work made for hire. Service Provider and Service Provider's employees will have no rights in or ownership of the Work and any and all documentation or other products and results of the services or any other property of Agency. Service Provider acknowledges and agrees that the Work (and all rights therein) belongs to and shall be the sole and exclusive property of Agency. If for any reason the Work would not be considered a work-for-hire under applicable law, Service Provider does hereby sell, assign, and transfer to Agency, its successors and assigns, the entire right, title and interest in and to the copyright in the Work and any registrations and copyright applications relating thereto and any renewals and extensions thereof, and in and to all works based upon, derived from, or incorporating the Work, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing. Service Provider agrees to execute all papers and to perform such other property rights, as Agency may deem necessary to secure for Agency or its designee the rights herein assigned. In the event that Service Provider has any rights in and to the Work that cannot be assigned to Agency, Service Provider hereby grants to Agency an exclusive, worldwide, royalty-free, irrevocable, and perpetual license to directly and indirectly reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, such rights to make, have made, use, sell and offer for sale any products developed by practicing such rights, and to otherwise use such rights, with the right to sublicense such rights through multiple levels of sublicenses. No later than the first calendar day after the termination or expiration of the contract or upon Agency's request, Service Provider shall deliver to Agency all completed, or partially completed, Work and any and all documentation or other products and results of the services. Failure to timely deliver such Work or any and all documentation or other products and results of the services will be

considered a material breach of the contract. Service Provider will not make or retain any copies of the Work or any and all documentation or other products and results of the services without the prior written consent of Agency.

#### **66. Required Disclosure of Lobbyist Activity and Certificate of Interested Parties**

Service Provider agrees that if, at any time during the term of the contract, an employee, director, subconsultant, or subcontractor of Service provider is required to register as a lobbyist under Texas Government Code Chapter 305, Service provider shall notify TJJJ and provide timely copies of all reports filed with the Texas Ethics Commission, as required by Chapter 305.

Additionally, pursuant to House Bill 1295 and Texas Government Code Section 2252.908, Service provider must submit a Certificate of Interested Parties or disclosure of interested parties on a form prescribed by the Texas Ethics Commission, currently identified as Form 1295. Prior to submission of this signed contract to TJJJ, Service provider must file Form 1295 through the online filing application process on the Texas Ethics Commission website at [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm). TJJJ will acknowledge Service provider's Form 1295 within thirty (30) days of submission.

#### **67. Restricted Employment for Certain State Personnel**

Pursuant to Section 572.069 of the Texas Government Code, Service Provider certifies that it has not employed and will not employ a former state officer or employee who participated in a procurement or contract negotiations for TJJJ involving Service Provider within two (2) years after the date that the contract is signed or the procurement is terminated or withdrawn. This certification applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.

#### **68. Restriction on Possession of Weapons**

Service Provider agrees that Service Provider or any employees, contractors, subcontractors, or associates providing services on behalf of Service Provider 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. Service Provider shall be under an affirmative duty to keep weapons out of the possession of TJJJ youth in Service Provider's care.

#### **69. Sanctions**

**Section 1:** In addition to its authority to terminate this contract under the termination provision or other provisions of this contract, TJJJ, based on information from monitoring or other verifiable sources, may take other actions including, but not limited to:

- a. Requiring Service Provider to take specific corrective actions in order to remain in compliance with the terms of this contract; and/or
- b. Recouping payment made to Service Provider; and/or
- c. Imposing recommendations from audit or investigative findings, and minor or major sanctions; and/or
- d. Recovery of damages to the extent allowed by Texas law for each instance of non-compliance; and/or
- e. Suspending, placing into abeyance, or removing any contractual rights including, but not limited to, withholding payment.

**Section 2:** Service Provider shall fully cooperate with TJJJ and its authorized representatives in carrying out corrective action plans.

#### **70. Severability**

If any provision of the contract is construed to be illegal or invalid, such construction will not affect the legality or validity of any of its other provisions. The illegal or invalid provision will be deemed severable and stricken from the contract as if it had never been incorporated herein, but all other provisions will continue in full force and effect.

#### **71. Signature Authority**

By submitting the Response, Service Provider represents and warrants that the individual submitting this document and the documents made part of this Response is authorized to sign such documents on behalf of the Service Provider and to bind the Service Provider under any contract that may result from the submission of this Response.

#### **72. Sovereign Immunity**

The Parties expressly agree that no provision of the contract is in any way intended to constitute a waiver by the TJJD or the State of Texas of any immunities from suit or from liability that the TJJD or the State of Texas may have by operation of law.

### **73. Specifications**

Service Provider shall provide services in accordance with the specifications contained in this contract. 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. Substitutions cannot be made without TJJD prior approval. TJJD will decide the rate of progress of the work and the acceptable fulfillment of services on the part of Service Provider.

### **74. Standard of Care for Architectural and Engineering Contractors**

Pursuant to Section 2254.0031 of the Texas Government Code, which incorporates by reference Section 271.904(d) of the Texas Local Government Code, Service Provider shall perform services (1) with professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license, and (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

### **75. State Auditor's and TJJD's Right to Audit**

Pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under any contract or indirectly through a subcontract under the contract. The acceptance of funds by Service Provider or any other entity or person directly under the contract or indirectly through a subcontract under the 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, Service Provider or other 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. Service Provider shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the contract and the requirement to cooperate is included in any subcontract it awards.

Service Provider shall maintain and retain supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with TJJD and State of Texas requirements. Service Provider 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 or contract issues, whichever is later. Service Provider 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 TJJD, the State of Texas, or their authorized representatives. Service Provider shall cooperate with auditors and other authorized TJJD and State of Texas representatives and shall provide them with prompt access to all of such State's property as requested by TJJD or the State of Texas. Service Provider's failure to comply with this provision shall constitute a material breach of this contract and shall authorize TJJD to immediately terminate and/or assess liquidated damages to the extent allowed by Texas law. TJJD may require, at Service Provider's sole cost and expense, independent audits by a qualified certified public accounting firm of Service Provider's books and records or the State's property. The independent auditor shall provide TJJD with a copy of such audit at the same time it is provided to Service Provider. TJJD retains the right to issue a request for proposals for the services of an independent certified public accounting firm under this contract.

The contract may be amended unilaterally by TJJD to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.

### **76. Subcontractors**

Service Provider may not subcontract any or all of the work and/or obligations due under the contract without prior written approval of the TJJD. Subcontracts, if any, entered into by the Service Provider shall be in writing and be subject to the requirements of the contract. Should Service Provider subcontract any of the services required in the contract, Service Provider expressly understands and acknowledges that in entering into such subcontract(s), TJJD is in no manner liable to any subcontractor(s) of Service Provider. In no event shall this provision relieve Service Provider of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with this contract.

## **77. Survival**

Expiration or termination of the contract for any reason does not release Service Provider from any liability or obligation set forth in the contract that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of the contract, including without limitation the provisions regarding warranty, indemnification, confidentiality, and rights and remedies upon termination.

## **78. Suspension and Debarment**

Service Provider certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration.

## **79. Taxes**

Purchases made for state uses are exempt from Texas State Sales Tax and Federal Excise Tax. A Tax Exemption Certificate will be furnished upon written request to TJJJ. Service Provider represents and warrants that it shall pay all taxes or similar amounts resulting from the contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Service Provider or its employees. TJJJ shall not be liable for any taxes resulting from the contract.

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## **82. Termination**

**Section 1:** Service Provider may terminate the contract for convenience by giving one hundred eighty (180) calendar days' written notice to TJJJ.

**Section 2:** TJJJ may terminate the contract for convenience on thirty (30) calendar days' written notice. There is no buy out or other amounts due if TJJJ terminates early. Upon termination under this provision, Service Provider shall refund to TJJJ any amounts attributable to the terminated months within thirty (30) days of the termination.

**Section 3:** TJJJ shall terminate this contract in the event that TJJJ 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/Breach:** If Service Provider fails to provide the goods or services contracted for according to the provisions of this contract, or fails to comply with any terms or conditions of this contract, TJJJ may, upon written notice of default or breach to Service Provider, immediately terminate all or any part of this contract. Termination is not an exclusive remedy, but exists in addition to any other rights and remedies provided in equity, by law, or under this contract. TJJJ 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 this contract. The exercise of any of the foregoing remedies will not constitute a termination of this contract unless TJJJ notifies 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 TJJJ with respect to the enforcement of any of the remedies listed herein.

## **83. Terms and Conditions Attached to Response**

Any terms and conditions attached to a Response will not be considered unless specifically referred to in the Response.

## **84. Texas Bidder Affirmation**

Service Provider certifies that if a Texas address is shown as the address of the Service Provider on this Response, Service Provider qualifies as a Texas Bidder as defined in Section 2155.444(c) of the Texas Government Code.

## **85. Unfair Business Practices**

Service Provider represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Service Provider has not been found to be liable for such practices in such proceedings. Service Provider certifies that it has no officers who have served as

officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

**86. Use of Contract by Local and State Agencies**

The contract shall be available for use by all local governments and state agencies also known as "Customer," **provided** there are no conflicts with any applicable statutes, rules, policies, or procedures.

The contract was competitively solicited, negotiated and awarded or directly awarded in accordance with applicable State of Texas purchasing statutes, rules, policies, and procedures. State agencies and local governments may use the prices shown in the contract to issue their own contract or may negotiate lower rates based on the increase in capacity. Arrangements for delivery of services are contingent upon mutual agreement of the state agency or local government and Service provider. The state agency's or local government's contract shall reference the TJJD's contract number and be sent directly to the Service provider.

The terms and conditions set forth herein shall govern all transactions by Customers under the contract. Customers shall not have the authority to modify the terms of the contract, except as to receive better terms or pricing for a particular procurement than those set forth herein. In such event, Service provider shall furnish a copy of such better offerings to the TJJD. Any savings or rate reductions offered to the other local governments and state agencies as a result of those local governments and state agencies using the contract will be offered to the TJJD. The TJJD shall have the right to modify the original contract to reflect those cost savings and rate reductions. No additional term or condition of a contract issued by a Customer can modify a term or condition of the contract, unless approval is obtained from the TJJD. In the event of a conflict between a Customer's purchase order and the contract, the contract shall prevail.

The Service provider shall provide services as per the requirements, terms, and conditions of the established contract. The Customer may not deviate from the material requirements of the contract, as Service provider is not obligated to perform other than as stated within the contract, unless a change is approved by the TJJD. The Customer shall use the contract exclusively while identified as an authorized user. If the Customer procures services from another provider, Customer's status as an authorized user will be terminated.

The Customer shall request services directly from Service provider. The Customer shall receive and reconcile invoices and client participation reports independent from the TJJD. The Customer shall work directly with the Service provider in resolving all issues, including litigation, as they relate to services performed under their contract with Service provider. The Customer shall be billed directly by the Service provider and make monthly payments from local funds as per the rates in this contract. The TJJD shall have no obligation to pay Service provider for monies the Customer may owe Service provider."

The Customer agrees to indemnify and hold the TJJD harmless from any and all of the following whether the same be actual or alleged: all loss, damage, claims, suits, taxes, liens, penalties, fines, liability, and expense (including attorneys' fees) howsoever arising or incurred as a result of the contract, including, but not limited to, damages or injuries or death to persons, or injury to or destruction of property.