



**FORT BEND COUNTY JUVENILE PROBATION DEPARTMENT**

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**JUVENILE BOARD**

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HON. CLIFF VACEK

5-28-13

AGENDA ITEM 29

**MEMORANDUM:**

May 23, 2013

TO: COMMISSIONER's COURT

FROM: J. C. Whitten, Juvenile Board Liaison

RE: Agenda Item regarding Juvenile Case Management System

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On Tuesday, May 28<sup>th</sup>, 2013, the following Agenda request is made for your consideration:

**"Take all appropriate action to participate in the Techshare Program for Juvenile and JCMS Basic. Authorize County Judge to sign JCMS Basic Use and Mutual Non-Disclosure Agreements between Fort Bend County and the Texas Conference of Urban Counties replacing the state CaseWorker 5 system in use at Juvenile. No funds required."**

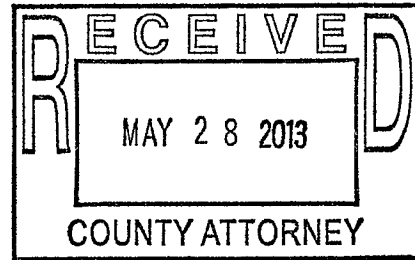
This was brought to my attention recently and in order to determine the facts behind this change, contacts with Mike Griffiths, Executive Director of Texas Juvenile Justice Department, and Connie Heinecke, I.T., to verify why this project was put on hold some time ago. It appears that there was a question raised by the County Attorney's Office, which has been clarified and been accepted regarding the Agreement with *TechShare*. A copy of my correspondence with Mr. Griffiths is attached in support of Fort Bend County moving forward with the new software.

This action has been reviewed and recommended by the Juvenile Board Chair Judge Sandy Bielstein.

The current State software, Case Worker, will soon not be supported due to it being outdated, over 12 years old. The new software will be the vehicle that the state will down load monthly reports and information from our cases.

Your support and approval is requested.

Respectfully, submitted,



Approved As To Legal Form:

<u>PL</u>	<u>5-28-13</u>
Asst. County Atty.	Date

## JCMS.BASIC USE AGREEMENT

This JCMS.Basic Use Agreement is entered into by and between the Texas Conference of Urban Counties ("Urban Counties") and Fort Bend County ("County") for the purpose of permitting County to use JCMS.Basic in a hosted domain.

### **1. Urban Counties Responsibilities**

- 1.1. Urban Counties will make JCMS.Basic available to County for use in a hosted domain.
- 1.2. Urban Counties shall limit access to County's confidential, proprietary information solely to those persons or entities to whom such disclosure is necessary to perform the purposes stated herein and/or to those persons or entities that are subject to the provisions of this agreement.
- 1.3. Urban Counties agrees that under no circumstances shall Urban Counties permit disclosure, access, distribution, copying, review, or examination of County's confidential or proprietary information by any other party not authorized herein.
- 1.4. Confidential, proprietary information provided by County shall not be modified or marketed without the written authorization of County.
- 1.5. All reasonable security precautions, at least as great as the precautions Urban Counties takes to protect its own confidential information, but no less than reasonable care, shall be taken by Urban Counties to prevent unauthorized use or disclosure of juvenile information.
- 1.6. Urban Counties shall cooperate with County to regain possession and/or prevent unauthorized use or disclosure of juvenile information maintained in JCMS.Basic.
- 1.7. Either Party may terminate this Agreement upon 60 days written notice, or as permitted in section 3.7. Upon termination of this Agreement, Urban Counties shall return to County its data maintained in JCMS.Basic. The data shall be provided in an industry-standard electronic format. Urban Counties shall work cooperatively with County on the timing of the return of the data. At no time shall County be denied access to or use of its data, except as permitted in section 3.7.

### **2. System Support**

- 1.1. Support will be provided in accordance with the TechShare.Juvenile System Support Plan, the current version of which is attached as Attachment A.
- 1.2. The TechShare.Juvenile System Support Plan may be revised without prior notice to County. The current version of the TechShare.Juvenile System Support Plan may be found on the TechShare website, [www.cuc.org/TechShare/techshare.aspx](http://www.cuc.org/TechShare/techshare.aspx)

### **3. County Responsibilities**

- 3.1. County acknowledges and agrees that data within JCMS.Basic will be accessible by other individuals and entities accessing JCMS.Basic and TechShare.Juvenile as permitted by Chapter 58, Texas Family Code.

- 3.2. County and their representatives acknowledges and agrees that the purpose of access to the juvenile information and data is to perform juvenile justice system related functions.
- 3.3. County agrees that JCMS.Basic shall not be used for any personal purposes, including entertainment, personal business or personal gain.
- 3.4. County understands that access to, and transmission of, any data or material deemed to be a violation of any federal, state or local law or agency administrative rules is prohibited.
- 3.5. County shall not access or distribute any information that is deemed confidential pursuant to Chapter 58, Texas Family Code, or other applicable federal or state statutes or rules, unless disclosure is specifically authorized by law.
- 3.6. County shall safeguard access to JCMS.Basic and shall not provide access capabilities to anyone for any reason, unless authorized by law.
- 3.7. County understands and acknowledges that violation of any of the preceding requirements may cause the immediate revocation of all access to JCMS.Basic granted to County and/or individual users as reasonably necessary in the sole determination of Texas Conference of Urban Counties to prevent further violations. Upon revocation of access to JCMS.Basic for all users of County, data shall be returned to County in accordance with section 1.7.
- 3.8. County agrees that use of JCMS.Basic may be monitored or audited by various means, including monitoring or auditing that may occur without a JCMS.Basic user's knowledge or prior notice.
- 3.9. County agrees that in the event it receives a request for information or other data belonging to another entity, County must promptly notify the requestor that the county receiving the request is not the custodian of the requested information or data. County must promptly notify the Texas Conference of Urban Counties of the request by sending notice to techshare@cuc.org.

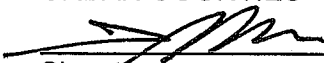
#### **4. Warranties and Liability**

- 4.1. URBAN COUNTIES DOES NOT WARRANT THAT JCMS.BASIC WILL MEET ANY SPECIFIC REQUIREMENTS; THE OPERATION OF JCMS.BASIC WILL BE UNINTERRUPTED OR ERROR-FREE; ANY DATA SUPPLIED BY JCMS.BASIC WILL BE ACCURATE; OR THAT JCMS.BASIC WILL WORK WITH ANY 3RD-PARTY OR SUPPLEMENTAL SOFTWARE. FURTHER, OR URBAN COUNTIES DOES NOT WARRANT THE EFFICACY, FUNCTIONALITY, OR OPERATION OF JCMS.BASIC. JCMS.BASIC IS PROVIDED AS-IS, AND URBAN COUNTIES EXPRESSLY DISCLAIMS ALL WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- 4.2. NEITHER PARTY SHALL HAVE LIABILITY WITH RESPECT TO THEIR OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION OR CLAIMS IN THE AGGREGATE, INCLUDING, BREACH OF CONTRACT, BREACH OF WARRANTY, INDEMNITY, NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, AND OTHER TORTS.

## 5. Miscellaneous

- 5.1. This Agreement evidences the complete understanding and agreement of the parties related to the subject matter and supersedes and merges all previous proposals of sale, communications, representations, understandings and agreements, whether oral or written, between the parties related to the subject matter. This Agreement may not be modified except by a writing subscribed to by authorized representatives of the parties.
- 5.2. This Agreement and its performance shall be governed by the laws of the State of Texas, without giving effect to the principles of conflict of laws of such state or international treaties.
- 5.3. Any notice provided pursuant to this Agreement, if specified to be in writing, shall be in writing and shall be deemed given if mailed by certified First Class United States mail, postage pre-paid, or by commercial carrier (e.g., FedEx, UPS, etc.) when the carrier maintains receipt or record of delivery, addressed to the address stated below, or to the last address specified in writing by the intended recipient.
- 5.4. The waiver or failure of either party to exercise any right in any respect provided for in this Agreement shall not be deemed a waiver of any further right under the Agreement.
- 5.5. If for any reason a court of competent jurisdiction finds all or part of any provision of this Agreement to be unenforceable, that provision shall be enforced to the maximum extent permissible to affect the intent of the parties, and the remainder of this Agreement shall continue in full force and effect.
- 5.6. Unless otherwise specified herein, the rights and remedies of both parties set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to it at law or in equity.
- 5.7. The Parties agree that this Agreement is for the benefit of the parties and is not intended to confer any rights or benefits on any third party, and that there are no third party beneficiaries as to this Agreement or any part or specific provision of this Agreement.

URBAN COUNTIES

  
Signature

Donald Lee, Executive Director  
Printed Name and Title

5-22-13  
Date

FORT BEND COUNTY

  
Signature

Robert E. Hebert, County Judge  
Printed Name and Title

5-28-2013  
Date

## MUTUAL NON-DISCLOSURE AGREEMENT FOR TECHSHARE.JUVENILE AND JCMS.BASIC

This Agreement, which is effective as of May 28, 2013 (the "Effective Date"), is made and entered into by and between Fort Bend County ("County"), whose address is: 301 Jackson St., Suite 719, Richmond, Texas 77469 (MAILING ADDRESS), the Texas Juvenile Justice Department ("Department") whose address is: P.O. Box 12757, Austin, Texas 78711-2757, and the Texas Conference of Urban Counties, Inc. ("Urban Counties"), whose address is 500 W. 13<sup>th</sup> St., Austin, Texas 78701. The Urban Counties, Department and County are individually each a "Party" and collectively, the "Parties". Except as otherwise indicated herein, a reference to a Party includes any political subdivision or department operated by or under the authority of the Party and all affiliates of the Party including any person, partnership, joint venture, corporate, subsidiary or other form of enterprise, domestic or foreign, that is directly, indirectly, or under common control of or controlled by the Party.

1. **Background.** Urban Counties, through its TechShare program, and the Department have developed TechShare.Juvenile and the Juvenile Case Management System Basic (both of which are hereinafter collectively referred to as "JCMS") in conjunction with other partner agencies. County desires to have access to information regarding JCMS in order to evaluate JCMS for possible implementation within County. In the course of such evaluation, Urban Counties and the Department will disclose or deliver to County and to County's directors, officers, employees, members, agents or advisors (collectively, "Representatives") certain confidential or proprietary information for the purpose of enabling County to evaluate the architecture, compatibility and functionality of JCMS. At the same time, County will disclose to Urban Counties and/or the Department and their respective Representatives proprietary information pertaining to the County's information technology infrastructure. The confidential information released pursuant to this agreement shall be used solely for the purpose of evaluating, implementing, and operating JCMS in support of the County's Juvenile Probation Department as a replacement system for the County's legacy Caseworker/5 installation (the "Purpose"). The Parties have entered into this Agreement to assure the confidentiality of each Party's confidential and proprietary information under the terms of this Agreement.
2. **Confidential Information.** As used in this Agreement, the term "Confidential Information" means all information and specifications, designs, application, operating system, database, communication and other computer software developed for use on any operating system, all modifications, enhancements and versions and all options available with respect thereto, and all products developed or derived therefrom, source and object codes, flowcharts, algorithms, coding sheets, routines, sub-routines, compilers, assemblers, design concepts and related documentation and manuals, discoveries, concepts and ideas including, without limitation, the nature and results of research and development activities, processes, formulas, inventions, computer-related equipment or technology, techniques, "know-how", designs, drawings and specifications, all of the above which relate to JCMS in the case of Confidential Information belonging to Urban Counties or the Department. The County's confidential information includes, but is not limited to, data mapping from the County's Caseworker installation and the County's network configuration and related security specifications, and also includes, without limitation, information in tangible or intangible form relating to the coding or mapping of data from the County's legacy juvenile case management system, configuration specifications related to its network or computer systems on which the County's information services are performed and/or configuration specifications related to its implementation of JCMS. "Confidential Information" includes information in any form, whether written, electronic, or verbal. In addition, the term "Confidential Information" shall include any notes, analyses, compilations, studies, interpretations, memoranda or other documents prepared by a Party or its Representatives that contain, reflect or are based upon, in whole or in part, any Confidential Information furnished to

the Party (the "Recipient Party") or its Representatives by another Party (the "Disclosing Party") under this Agreement.

3. Use and Disclosure of Confidential Information. Each Recipient Party and its respective Representatives shall use the Confidential Information only for the Purpose and the Confidential Information shall not be used for any other purpose without the prior written consent of the Disclosing Party. Each Recipient Party and its respective Representatives shall hold in confidence, and shall not disclose any Confidential Information; provided, however, that: (i) a Recipient Party may disclose information as authorized by the Disclosing Party in advance in writing; and (ii) any of the Confidential Information may be disclosed by a Recipient Party to its Representatives who need to know the information in connection with the Purpose if they are informed of the confidential nature of the information and of the terms of this Agreement. In any event, a Recipient Party shall be responsible for any breach of this Agreement by any of its Representatives, and agrees, at its sole expense, to take reasonable measures to restrain its Representatives from prohibited or unauthorized disclosure or use of the Confidential Information. Notwithstanding anything contained in this Agreement to the contrary, this Agreement does not prohibit a Recipient Party from disclosing Confidential Information of a Disclosing Party to the extent required in order for the Recipient Party to comply with applicable laws, regulations and/or judicial process, provided that the Recipient Party provides prior written notice (if legally permitted) of the required disclosure to the Disclosing Party and takes reasonable and lawful actions to avoid and minimize the extent of the disclosure.
4. Limitation on Obligations. The obligations of each Recipient Party specified in Section 3 above do not apply, and a Recipient Party has no further obligations, with respect to any Confidential Information to the extent that the Confidential Information:
  - a. is part of the public domain at the time of disclosure or becomes part of the public domain without the Recipient Party or its Representatives violating this Agreement;
  - b. becomes known to a Recipient Party through disclosure by sources other than the Disclosing Party without the sources violating any confidentiality obligations to the Disclosing Party; or
  - c. is independently developed by a Recipient Party without reference to or reliance upon the Disclosing Party's Confidential Information.
5. Return of Confidential Information. A Recipient Party shall, upon the written request of a Disclosing Party, return to the Disclosing Party all Confidential Information received from the Disclosing Party (and all copies and reproductions). In addition, a Recipient Party shall destroy: (i) any notes, reports or other documents prepared by the Recipient Party which contain Confidential Information; and (ii) any Confidential Information (and all copies and reproductions thereof) which is in electronic form or cannot otherwise be returned to the Disclosing Party. Alternatively, upon written request of a Disclosing Party, a Recipient Party shall destroy all Confidential Information received from the Disclosing Party (and all copies and reproduction thereof) and any notes, reports or other documents prepared by the Recipient Party which contain Confidential Information. Notwithstanding the return or destruction of the Confidential Information, a Recipient Party and its Representatives will continue to be bound by their obligations of confidentiality and other obligations hereunder. Notwithstanding the foregoing obligations, a Recipient Party may retain and not destroy any Confidential Information it is required to retain pursuant to applicable law.
6. Confidentiality of Juvenile Information and Data. Each Party acknowledges and agrees that JCMS contains confidential aggregate and identifiable juvenile offender data deemed confidential under Chapters 58 and 261 of the Texas Family Code and other applicable state, federal and administrative laws. Access to juvenile records, files or data is restricted to

individuals or entities specifically authorized by law or pursuant to an order of the court. The statutory provisions governing the disclosure, dissemination and exchange of juvenile justice information are set forth in Chapter 58 of the Family Code and other applicable provisions. For purposes of this Agreement, each Party agrees that access to JCMS juvenile justice information and data shall be limited to criminal and/or juvenile justice purposes or for any other approved purposes set forth in this Agreement, statute or other applicable law. No exceptions to disclosure under the Public Information Act are waived by the exchange, disclosure or dissemination of confidential juvenile justice information under this Agreement.

7. Multiple Counterparts. For the convenience of the parties, this Agreement may be executed by facsimile and in counterparts, each of which shall be deemed to be an original, and all of which taken together, shall constitute one agreement binding on all Parties.

EXECUTED as of the day and year first set forth above.

TEXAS CONFERENCE OF URBAN COUNTIES

By: [Signature] 1/17/13  
Title: Executive Director

TEXAS JUVENILE JUSTICE DEPARTMENT

By: [Signature]  
Title: Executive Director

FORT BEND COUNTY  
By: [Signature]  
Robert E. Hebert  
Title: County Judge  
May 28, 2013