

MEMORANDUM OF AGREEMENT
BETWEEN
THE FLORIDA DEPARTMENT OF CORRECTIONS
AND
ORANGE COUNTY

This Memorandum of Agreement (“Agreement”) is between the Florida Department of Corrections (“Department”) and Orange County (“Agency”), a charter county and political subdivision of the State of Florida, which are collectively referred to as the “Parties” hereto.

WITNESSETH

WHEREAS, the Department is responsible for the Inmates and for the operation of, and supervisory and protective care, custody, and control of, all buildings, grounds, property, and matters connected with the correctional system in accordance with Section 945.04, Florida Statutes (F.S.); and

WHEREAS, the Department contracts for the statewide Victim Notification and Information Service Network Victim Information Notification Everyday (VINE) service, in an effort to provide automated offender information and notification to all victims of crime when an offender is released or escapes from custody; and

WHEREAS, the Department has a contract (“Contract”) with a Contractor (“Service Provider”) to provide a statewide automated victim notification service (“Service”) to the Department, the Florida Department of Juvenile Justice, and local Sheriffs/County Jails within the State of Florida; and

WHEREAS, the Agency is a member of the State of Florida Criminal Justice System and, as such, desires to participate in the Service; and

WHEREAS, this Agreement is entered into to establish the respective roles and responsibilities of the Agency with the Department for the Service.

NOW THEREFORE, subject to controlling law, rules, regulations, or to other governing policies and procedures, and in consideration of the mutual promises expressed herein, the parties agree as follows:

I. AGREEMENT TERM AND RENEWAL

A. Agreement Term

This Agreement shall begin on the date it is signed by both parties. This Agreement, unless earlier terminated by mutual written agreement of the parties, shall remain in full force and effect so long as there exists a Contract with the Department for VINE services.

II. SCOPE OF AGREEMENT

A. Definitions

The capitalized terms used in this Agreement, unless the context otherwise clearly requires a different construction and interpretation, have the following meanings:

1. Agreement Administrator: The Agreement Administrator is responsible for maintaining the official Agreement Administration file, drafting and processing all amendments, maintaining records of all formal correspondence between the parties regarding the administration of this Agreement, and terminating the Agreement, if necessary.
2. Agreement Manager: The Agreement Managers are responsible for enforcing the performance of the Agreement terms and conditions and shall serve as liaisons between each party and the other.
3. Inmate: An individual who is incarcerated by the Department and confined to an Institution.
4. Institution: A correctional institution that houses Inmates in the custody of the Department.
5. Offender: Refers to an individual who is under community supervision with the Department.
6. Secure File Transfer Protocol (SFTP): a network protocol that provides file access, file transfer, and file management functionalities over any reliable data stream.
7. Warden: The Department employee responsible for supervising the governance, discipline, and policy of their assigned correctional institution and enforcing all orders and rules.
8. Web Service: a standardized integration of web-based applications using the Extensible Markup Language (XML), Simple Object Access Protocol (SOAP), Web Services Description Language (WSDL) and Universal Description, Discovery, and Integration (UDDI) open standards over an Internet protocol backbone.

B. License Fees

1. Pursuant to the authority granted to the Department in the Contract, the Service Provider shall grant a non-exclusive, non-transferable license to the Department, which will grant permission to the Agency to use the service for the duration of this Agreement. The Agency's participation shall be governed by the terms of the Contract.
2. The Agency understands and agrees that license fees payable to the Service Provider for services rendered to the Department and the Agency are through the Contract. The fees consist of start-up costs, if applicable, for an Agency, and annual maintenance fees. The fees will be paid by the Department from the effective date of this Agreement through the date of expiration of the term of this Agreement.

3. The Department reserves the right to request payment of maintenance fees from the Agency should the Department not receive annual appropriation by the Legislature. As consideration for their continued participation in the Service, the Agency would be responsible for the maintenance fee or may choose to discontinue the service.

C. Responsibilities of the Agency

1. The Agency shall coordinate with the Service Provider in development, installation, connection, if applicable, and continued support, of the system data interface necessary to extract data required for the system. This includes, but is not limited to, assistance with local network connectivity, physical site access for equipment installation, maintenance, and programming to create data extract files.
2. The Agency shall be responsible for any additional charges incurred from either internal Management Information System (MIS) staff or third-party vendors for programming necessary to create extract files from existing automated systems.
3. If the Agency installs a new, or changes an existing, booking system after the initial interface has been implemented, if applicable, additional programming charges may apply for work required by the Service Provider to program and test the new interface and will be the responsibility of the Agency. These charges are in addition to any charges that may be applied by the Agency's MIS staff or third-party vendor responsible for the new booking system.
4. The Service Provider will install or establish a form of connectivity (hereinafter referred to as "VINE Gateway") such as Secure File Transfer Protocol (SFTP), Web Service, etc., at the Agency where it is needed for the interface. The purpose of the VINE Gateway is to obtain offender information from the site and transmit it to the National Operations Center.
 - i. The VINE Gateway should not be used for any other purposes by the Agency's staff. Other usage of the computer by staff beyond the indicated purpose may cause loss of data or interfere with data collection. In such cases, the Agency will be responsible for any anomaly in the data or the interruption in the service.
 - ii. Any damage to a VINE Gateway resulting from Agency usage for purposes other than the VINE interface will void all warranties on the equipment. Replacement and/or repair of equipment as a result of Agency staff misuse will be the responsibility of the Agency.

III. FINANCIAL OBLIGATIONS

The parties acknowledge that this Agreement does not create financial obligations between the parties. If costs are incurred as a result of either, or both of the parties performing their duties or responsibilities under this Agreement, each party agrees to be responsible for its own costs.

IV. AGREEMENT MANAGEMENT

A. Agreement Administrator

The title, address, and telephone number of the Agreement Administrator are:

Contract Administrator
Bureau of Procurement
Florida Department of Corrections
501 South Calhoun Street
Tallahassee, Florida 32399-2500
Telephone: (850) 717-3700
Email: ContractAdmin@fdc.myflorida.com

B. Agreement Managers

The parties have identified the following individuals as Agreement Managers.

FOR THE DEPARTMENT:

Lisa Kinard
Correctional Program Administrator
501 South Calhoun Street
Tallahassee, Florida 32399
Telephone: (850) 717-3123
Email: lisa.kinard@fdc.myflorida.com

FOR THE AGENCY

Orange County
Attn: Contract Administrator
3723 Visions Blvd
PO Box 4970
Orlando, Florida 32802-4970
Telephone: (407) 836-3560
Email: OCCDPIO@ocfl.net

V. REVIEW AND MODIFICATION

Upon the request of either party, both parties will review this Agreement in order to determine whether its terms and conditions are still appropriate. The parties agree to renegotiate terms and conditions hereof if it is mutually determined that significant changes to this Agreement are necessary. There are no obligations for either party to agree to amend the Agreement terms.

Upon execution of this Agreement, with the exception of changes to Section **IV. AGREEMENT MANAGEMENT**, modifications shall be valid only through execution of a formal written amendment to the Agreement. Any changes in the information contained in Section **IV. AGREEMENT MANAGEMENT**, may be provided to the other party, in writing, and a copy of the written notification shall be maintained in the official Agreement record.

VI. TERMINATION

A. Termination at Will

This Agreement may be terminated at any time upon the mutual consent of both parties or unilaterally by either party upon no less than 30 calendar days' written notice. Notice shall be delivered by express mail or other method whereby a receipt of delivery may be obtained.

B. Termination for Cause

This Agreement may be terminated with 24 hours' written notice by the Department for any failure of the Agency to comply with the terms of this Agreement or any applicable Florida law.

C. Termination for Unauthorized Employment of Transport

Violation of the provisions of the Immigration and Nationality Act related to Unauthorized Employment in Section 274A (8 U.S.C. 1324a) or Transport in Section 274 (8 U.S.C. 1324) shall be grounds for unilateral cancellation of this Agreement.

VII. OTHER CONDITIONS

A. Records

1. Public Records Law

The Agency agrees to: (a) keep and maintain public records required by the Department in order to perform the service or the Agreement obligations; (b) upon request from the Department's custodian of public records, provide the Department with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract if the Agency does not transfer the records to the Department; and (d) upon completion of the Contract, transfer, at no cost, to the Department all public records in possession of the Agency or keep and maintain public records required by the Department to perform the service or the Agreement obligations. If the Agency transfers all public records to the Department upon completion of the Contract, the Agency shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Agency keeps and maintains public records upon completion of the Contract, the Agency shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Department, upon request from the Department's custodian of public records, in a format that is compatible with the information technology systems of the Department. Pursuant to Section 287.058(1)(c), F.S., the Department is allowed to unilaterally cancel the Contract for refusal by the Agency to allow public access to all documents, papers, letters, or other material made or received by the Agency in conjunction with the Contract, unless the records are exempt from § 24(a) of Art. I of the State Constitution and Section 119.07(1), F.S.

If the Agency has questions regarding the application of Chapter 119, Florida Statutes, to the Agency's duty to provide public records relating to this Agreement, contact the custodian of public records at:

Florida Department of Corrections

ATTN: Public Records Unit

501 South Calhoun Street

Tallahassee, Florida 32399-2500

Telephone: 850-717-9774

Fax: 850-922-4355

Website:

[https://floridadoc.govqa.us/WEBAPP/rs/\(S\(mxurvkh004wtw1eymm15f4x\)\)/SupportHome.aspx](https://floridadoc.govqa.us/WEBAPP/rs/(S(mxurvkh004wtw1eymm15f4x))/SupportHome.aspx)

A. Sovereign Immunity

The Agency and the Department are State agencies or political subdivisions as defined in Section 768.28, F.S., and agree to be fully responsible for acts and omissions of their own agents or employees to the extent permitted by law. Nothing herein serves as a waiver of sovereign immunity by either party to which sovereign immunity may be applicable. Further, nothing herein constitutes consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement.

B. Background Checks

The Agency's staff assigned to this Agreement and any other person performing services pursuant thereto, shall be subject, at the Department's discretion and expense, to a Florida Department of Law Enforcement (FDLE) Florida Crime Information Center/National Crime Information Center (FCIC/NCIC) background/criminal records check. This background check will be conducted by the Department and may occur or re-occur at any time during the Agreement term. The Department has full discretion to require the Agency to disqualify, prevent, or remove any staff from any work under the Agreement. The use of criminal history records and information derived from such records checks is restricted pursuant to Section 943.054, F.S. The Department agrees not to disclose any information regarding the records check findings or criteria for disqualification or removal to the Agency. The Department will not confirm to the Agency the existence or nonexistence of any criminal history record information. In order to carry out this records check, the Agency shall provide, to the institution(s) at which the program is offered, prior to the performance of any services under this Agreement, the following data for any Agency staff or subcontractor's staff assigned to the Agreement: Full Name, Race, Gender, Date of Birth, Social Security Number, Driver's License Number, and the state of issue for the Driver's License.

For Agency staff providing services within a Department institution, the Agency shall obtain a Level II background screening in advance (which includes fingerprinting to be submitted to the Federal Bureau of Investigation (FBI)), and results must be submitted to the Department prior to any current or new Agency staff being assigned to work at the institution. The Agency shall bear all costs associated with this background screening. The Agency shall not consider new employees to be on permanent status until the Department receives a favorable report from the FBI.

C. Confidentiality

The Agency shall ensure all staff assigned to this Agreement maintain confidentiality with reference to individuals receiving services in accordance with applicable local, State, and federal laws, rules, and regulations.

The Department and the Agency agree that all information and records obtained in the course of providing services under this Agreement shall be subject to confidentiality and disclosure provisions of applicable federal and State statutes and regulations adopted pursuant thereto.

The Agency agrees to keep all Department personnel information (i.e., Department's staffs' telephone numbers, addresses, etc.) strictly confidential and shall not disclose said information to any person, unless released in writing, by the Department.

D. Independent Contractor Status

The Agency shall be an independent contractor in the performance of its duties and responsibilities under this Agreement. The Department will neither have nor exercise any control or direction over the methods by which the Agency shall perform its work and functions other than as provided herein. This Agreement is not a partnership or a joint venture between the parties.

E. Disputes

Any dispute arising from this Agreement shall be resolved informally by the Agreement Managers. Any dispute that cannot be resolved informally shall be reduced to writing and delivered to the Department's Assistant Deputy Secretary of Community Corrections. The Assistant Deputy Secretary of Community Corrections shall decide the dispute, reduce the decision to writing, and deliver a copy to the Agency, the Agreement Manager, and the Agreement Administrator.

F. Notices

All notices required or permitted by this Agreement shall be given, in writing, and by hand-delivery or email, to the respective addresses of the parties as set forth in Section IV., **AGREEMENT MANAGEMENT**. All notices by hand-delivery shall be deemed received on the date of delivery, and all notices by email shall be deemed received when they are transmitted and not returned as undelivered or undeliverable if sent on a business day between the hours of 8 a.m. to 5 p.m... Either party may change the names, addresses, or telephone numbers set forth in Section IV., **AGREEMENT MANAGEMENT**, above by written notice given to the other party as provided above.

G. Prison Rape Elimination Act (PREA)

The Agency shall comply with the national standards to prevent, detect, and respond to prison rape under the PREA, 28 C.F.R. Part 115. The Agency's staff who will not enter the secured perimeter, but can be on property in the presence of an Inmate, shall also comply with all Department policies and procedures that relate to PREA (see Department Procedure 602.053, "Prison Rape: Prevention, Detection, and Response") and immediately report any suspected/reported PREA violations to the Agreement Manager for the

Department and the Warden's office verbally and follow up with a written notification to the Agreement Manager and Warden's office within 24 hours of learning about the suspected PREA violation.

H. No Third-Party Beneficiaries

Except as otherwise expressly provided herein, neither this Agreement, nor any amendment, addendum, or exhibit attached hereto, nor term, provision, or clause contained therein, shall be construed as being for the benefit of, or providing a benefit to, any party not a signatory hereto.

I. Cooperation with Inspector General

In accordance with Section 20.055(5), F.S., the Agency understands and will comply with its duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing.

J. Force Majeure

Neither party shall be liable for loss or damage suffered as a result of any unforeseeable delay or failure in performance under this Agreement or interruption of performance resulting directly or indirectly from acts of God, fire, explosions, earthquakes, floods, water, wind, lightning, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, pandemics, strikes, or labor disputes.

K. Americans with Disabilities Act (ADA)

The Agency shall comply with the Americans with Disabilities Act (ADA), 42 U.S.C. §12101, et. seq. In the event of the Agency's noncompliance with the nondiscrimination clauses, the ADA, or with any other such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended, in whole or in part, and the Agency may be declared ineligible for further Agreements.

L. Cooperation with the Florida Senate and the Florida House of Representatives

In accordance with Section 287.058(7), F.S., the Agency agrees to disclose any requested information, relevant to the performance of this Agreement, to members or staff of the Florida Senate or the Florida House of Representatives, as required by the Florida Legislature. The Agency is strictly prohibited from enforcing any nondisclosure clauses conflictive with this requirement.

M. Data Sharing

The Department and the Agency acknowledge their separate obligations to store and disseminate data in compliance with the requirements of Public Records Law, Chapter 119, F.S., and with other applicable statutes that constitute express exceptions to the requirements of Section 119.07(1), F.S., by making certain categories of records confidential, exempt from disclosure, or accessible as prescribed by statute. Both the Department and the Agency acknowledge that the data exchanged between them has been provided for official purposes and that public access to such data is limited and prescribed by statute. The Department and Agency therefore agree, consistent with public records law,

to refer third parties requesting delivery of information to the originating party. The Department and the Agency further agree to disseminate data only in compliance with confidentiality restrictions and in recognition of the exemptions from disclosure provided by law and to provide advance copies of documents involving the other party's data for review to determine if there has been an inadvertent disclosure of confidential information as described herein, prior to publication.

N. Health Insurance Portability and Accountability Act (HIPAA)

The Agency shall comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all applicable regulations promulgated thereunder. Agreement to comply with HIPAA is evidenced by the execution of this Agreement.

O. E-Verify

It is unlawful for any person to knowingly employ, hire, recruit, or refer, either for herself or himself or on behalf of another, for private or public employment within this state, an alien who is not duly authorized to work by the immigration laws of the United States, the Attorney General of the United States, or the United States Secretary of the Department of Homeland Security, in accordance with Section 448.09, F.S.

P. Governing Law and Venue

This Agreement is executed and entered into in the State of Florida and shall be construed, performed, and enforced in all respects in accordance with the laws, rules, and regulations of the State of Florida. Any action hereon or in connection herewith shall be brought in Leon County, Florida.

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IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

**AGENCY:
ORANGE COUNTY**

SIGNED
BY: _____

NAME: _____

TITLE: _____

DATE: _____

FEIN: _____

FLORIDA DEPARTMENT OF CORRECTIONS

Approved as to form and legality, subject to execution.

SIGNED
BY: _____

NAME: J. Olyn Long

TITLE: Procurement Director

DATE: _____

SIGNED
BY: _____

NAME: Kristen Clemons

TITLE: Deputy General Counsel

DATE: _____