



**DeWight Dopslauf, C.P.M., CPPO
Harris County Purchasing Agent**

September 05, 2024

Commissioners Court
Harris County, Texas

RE: Professional Services Exemption - Local Government Code § 262.024 (a)(4)

Members of Commissioners Court:

Please approve an exemption from the competitive bid requirements and the attached Order(s) authorizing the County Judge to execute the attached Agreement(s) for the following:

Description: Medical Examiner Services for the Harris County Institute of Forensics Sciences

Vendor(s): Merrill Hines dba Final Advocate Forensics, PLLC

Term: October 01, 2024 - September 30, 2025 with one (1) one-year renewal options

Amount: \$220,000

Reviewed By: • Harris County Purchasing • Institute of Forensic Sciences

Purchase order(s) will be issued as required upon Commissioners Court approval.

Sincerely,

DeWight Dopslauf
Purchasing Agent

SE
Attachment(s)
cc: Vendor(s)

FOR INCLUSION ON COMMISSIONERS COURT AGENDA SEPTEMBER 19, 2024



**PROFESSIONAL SERVICES AGREEMENT BETWEEN HARRIS COUNTY
AND MERRILL HINES DBA FINAL ADVOCATE FORENSICS, PLLC**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This Professional Services Agreement (“Agreement”) is made and entered into by and between Harris County (the “County”), a body corporate and politic under the laws of the State of Texas, acting by and through the Harris County Institute of Forensic Sciences (“Department”), and Merrill Hines dba Final Advocate Forensics, PLLC (“Contractor”). The County and Contractor are referred to herein collectively as the “Parties” and individually as a “Party.”

Recitals

The Department desires the Contractor to provide professional services pursuant to Tex. Loc. Gov’t. Code Ann. § 262.024(a)(4) and Gov’t Code § 2254.002(2), to be funded from the Department’s budget. Contractor agrees to provide medical examiner services for the Department.

Contractor warrants and represents that they possess the required training, knowledge and expertise to provide the requested Services for the benefit of County and the Department.

Contractor warrants that all Services provided under this Agreement will be performed solely by Dr. Merrill Hines and not any other agent, officer, or employee of Dr. Merrill Hines or any other entity owned or operated by Contractor.

1) GENERAL SCOPE OF SERVICES AND CONTRACTOR’S RESPONSIBILITIES

- A) Dr. Merrill Hines shall provide the services described herein and none of the work shall be performed by any other employee, servant, agent, delegate, or subcontractor on Contractor’s behalf. Contractor shall provide medical examiner services, including medicolegal exams of decedents requiring autopsies, as well as comprehensive written autopsy reports (to include histology examination as warranted) within 90 days of autopsy, as requested by the Department on an as needed basis (the “Services”).
- B) Contractor warrants and represents that Dr. Hines is a physician, licensed to practice medicine in Texas, and is a forensic pathology board-certified pathologist in good standing and is qualified to provide the requested services.
- C) Applicable Expertise. Contractor and the person executing this Agreement on behalf of Contractor certify and represent that Contractor (including Contractor’s agents, employees, volunteers, and subcontractors, as applicable) possess the skills, qualifications, expertise, experience, education, knowledge, ability, and financial resources to perform all Services contemplated in this Agreement without significant disruption of those Services.

- D) Permits and Licensing. Contractor represents that Contractor (including Contractor's agents, employees, volunteers, and subcontractors, as applicable) possesses all special certifications, licenses, inspections and permits required by law to carry out the Services contemplated in this Agreement. Contractor's agents, employees, volunteers, and subcontractors, as applicable, shall maintain appropriate accreditation and licensing, as required, through the State of Texas or other applicable licensing entities. Prior to the performance of any Services under this Agreement, Contractor shall, upon written (including electronic) request, provide proof of valid licensure to the Department (including a listing of all licenses and expiration dates).
- E) Contractor may not make, in whole or in part, any assignment of this Agreement or of any duty of obligation of performance of the Services hereunder. It is expressly understood and agreed that all Services must be performed personally by Dr. Hines and such services shall not be assigned to or performed by any other person.
- F) Contractor warrants and represents that it does not owe any debts to Harris County, including, but not limited to delinquent taxes, court judgments, tickets, tolls, fees, or fines. Taxes are deemed delinquent on the date certain as specified by the Harris County Tax Office. For the purposes of this Agreement, a court judgment is not required for delinquent taxes to be considered a debt.
- G) Contractor warrants and represents that it is not in breach of any other contract, obligation or covenant that would affect Contractor's ability to perform hereunder and, as a result of entering into this Agreement, will not breach any such contract, obligation, or covenant.
- H) Unless otherwise stated in this Agreement, words which have well-known technical or industry meanings are used in accordance with such recognized meaning.
- I) Contractor warrants and represents that it will deliver the Services in compliance with all applicable federal, state, and local laws, ordinances, rules, and regulations relating to the Services.
- J) During the term of this Agreement, Contractor must not represent or undertake to perform any services to any other party with respect to any matters that would present a conflict of interest between the County and that other party. In the event that a conflict of interest arises, as determined solely by the County, this Agreement will terminate automatically and Contractor will not be entitled to payment for services performed after the date of such termination.

2) INDEPENDENT PARTIES

- A) The Services performed by the Contractor under this Agreement are performed by Contractor as an independent contractor and in addition to Contractor's regular

business. Contractor shall remain an independent contractor and shall not be considered an employee, agent, borrowed servant, or partner of the County.

- B) The County shall look to Contractor for results only. Contractor shall not be obligated to maintain any set, regular hours, nor perform any set number of hours of Service in fulfilling Contractor's obligations. Contractor may start and cease work hereunder at will as long as authorized services are performed satisfactorily and in a timely manner.
- C) Contractor shall not have the legal status of an employee of the County and shall have no right in or claim to any of the County's employee benefits or group insurance plans or programs. Contractor acknowledges Contractor's independent contractor's status and Contractor's sole responsibility with respect to payment of any and all taxes or other assessments which may be payable as a result of the fees paid under this Agreement. The County shall not provide to the Contractor Social Security, unemployment compensation, disability insurance, workers' compensation, medical malpractice, or similar coverage, or any other statutory benefit. The County shall not withhold from Contractor's compensation any federal, state or local taxes except as shall be required to be withheld pursuant to any applicable law or regulation.
- D) **IN THE EVENT THAT ANY STATE OR FEDERAL AGENCY OR COURT OF COMPETENT JURISDICTION DETERMINES THAT CONTRACTOR IS NOT AN INDEPENDENT CONTRACTOR, CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS THE COUNTY FOR ANY AND ALL DAMAGES, PENALTIES, ASSESSMENTS, TAXES, AND EXPENSES THAT MAY BE INCURRED BY COUNTY AS A RESULT OF THIS DETERMINATION.**
- E) Neither Party shall have the authority to enter into contracts or agreements on behalf of the other Party.

3) **TERM**

This Agreement begins upon final execution by the Parties and shall remain in full force and effect upon execution, unless earlier terminated in accordance with the terms herein. At the County's option, this Agreement may be renewed on the same terms and conditions for one (1) additional one (1) year period (the "Renewal Term").

4) **CONTRACTOR'S COMPENSATION**

- A) County agrees to pay Contractor at a rate of \$1,100 per autopsy performed, including the resulting report.
- B) The above amounts are intended to compensate Contractor for all time and expenses. It is expressly understood that Contractor is neither authorized to seek reimbursement nor is the County obligated to pay for postage, long distance

telephone calls, parking fees, travel, mileage, lodging, or other costs or expenses (similar or dissimilar).

5) TERMS OF PAYMENT

- A) Subject at all times to the Limit of Appropriation and any required approvals from the County as set forth in this Agreement, the County agrees to pay the Contractor according to the rates found in Section 4 of this Agreement. County shall pay 90% of the amount due for each autopsy upon completion of the autopsy, and shall pay the other 10% upon completion of the autopsy report.
- B) In order to receive payment, Contractor shall submit to the designated Department representative on the last day of each month a statement which details the Services provided. The statement should, at a minimum, identify who provided the Services, include a description of the Services and the dates and times for performance of Services. The Department, at its discretion and as reasonable, may request more information and paperwork to be provided in order to be acceptable by the County Auditor. Upon approval by the Department, the statement shall be forwarded to the County Auditor. The County shall pay each invoice as approved by the County Auditor in accordance with the laws of the State of Texas.

6) LIMIT OF APPROPRIATION

- A) Contractor understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to for the Services performed under this Agreement, and the total maximum sum that the County shall become liable to pay to Contractor under this Agreement, shall not under any conditions, circumstances, or interpretations thereof exceed the sum of Two-hundred-Twenty Thousand and No/Dollars (\$220,000.00). Notwithstanding anything to the contrary, or that may be construed to the contrary, the County's liability under the terms and provisions of this Agreement is limited to this sum.
- B) Contractor understands and agrees that the laws governing the letting of contracts for the County require the approval of the Harris County Auditor and its certification that funds are, or will be, available for the payment of the obligations created under the Agreement before such contracts become effective. Therefore, Contractor shall not proceed with any Services until such time that it receives a Purchase Order issued by the Harris County Purchasing Agent. Any Services performed by Contractor prior to receipt of a Purchase Order are at Contractor's own expense.
- C) Contractor does understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to hereunder, and the total maximum sum that the Contractor shall become liable to pay to Contractor hereunder, shall not under

any conditions, circumstances, or interpretations thereof exceed the sum certified by the Purchase Order. Notwithstanding anything to the contrary, or that may be construed to the contrary, the County's liability under the terms and provisions of this Agreement is limited to this sum. When all the funds so certified are expended, Contractor's sole and exclusive remedy shall be to terminate this Agreement. If the Services and charges to be provided for will equal or exceed the amount certified available, Contractor shall notify the County immediately.

7) TEXAS PUBLIC INFORMATION ACT

- A) The Parties expressly acknowledge that this Agreement is subject to the Texas Public Information Act, Tex. Gov't Code Ann. §§ 552.001 *et seq.*, as amended (the "Act"). Contractor expressly understands and agrees that the County shall release any and all information necessary to comply with Texas law without the prior written consent of Contractor.
- B) It is expressly understood and agreed that the County, its officers and employees may request advice, decisions and opinions of the Attorney General of Texas ("Attorney General") in regard to the application of the Act to any software, or any part thereof, or other information or data furnished to the County, whether or not the same are available to the public. It is further understood that the County, its officers and employees shall have the right to rely on the advice, decisions, and opinions of the Attorney General, and that the County, its officers, and employees shall have no liability or obligations to Contractor for the disclosure to the public, or to any person or persons, of any software, or a part thereof, or other information or data furnished to the County in reliance on any advice, decision or opinion of the Attorney General.
- C) In the event the County receives a written request for information pursuant to the Act that affects Contractor's rights, title to, or interest in any information or data or a part thereof, furnished to the County by Contractor under this Agreement, then the County will promptly notify Contractor of such request. Contractor may, at his own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the Act. Contractor is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Act. Contractor is solely responsible for seeking any declaratory or injunctive relief regarding the disclosure of information that he deems confidential or privileged.
- D) Electronic Mail Addresses. Contractor affirmatively consents to the disclosure of his e-mail addresses that are provided to the County, including any agency or department of the County. This consent is intended to comply with the requirements of the Act, and shall survive termination of this Agreement. This consent shall apply to e-mail addresses provided by Contractor and agents acting on behalf of

Contractor and shall apply to any e-mail address provided in any form for any reason whether related to this Agreement or otherwise.

8) TERMINATION

- A) The County or the Contractor may terminate this Agreement at any time by providing thirty (30) days' notice in writing to the other party.
- B) Upon receipt of termination notice from the County, Contractor shall discontinue all Services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- C) Within thirty (30) days after receipt of notice of termination from the County, Contractor agrees to submit an invoice showing in detail the Services performed under this Agreement up to and including the date of termination.
- D) The County agrees to pay Contractor that proportion of the prescribed charges for the Services actually performed and deliverables actually received under this Agreement bear to the total Services or deliverables called for under this Agreement, less such payments on account of charges as have previously been made.
- E) *Force Majeure*. In the event that either Party is unable to perform any of their obligations under the Agreement or to enjoy any of the benefits because of natural disaster, actions or decrees of governmental bodies or communications line failure not the fault of the affected party (referred to as a "*Force Majeure* Event"), the Party who has been so affected immediately agrees to give notice to the other Party and agrees to do everything possible to resume performance. Upon receipt of such notice, the Agreement is immediately suspended. If the period of nonperformance exceeds ten (10) calendar days from the receipt of notice of the *Force Majeure* Event, the Party whose ability to perform has not been so affected may terminate the Agreement immediately by giving written notice to the other Party.
- F) Copies of all completed or partially completed information, programs, inventions, software (including source code), firmware, designs, documentation or data (the "Documents") developed, created or invented under this Agreement shall be delivered to the County when this Agreement is terminated or completed.

9) NOTICE

- A) Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been delivered in person or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or Contractor at the following addresses. If mailed, any notice or communication shall be deemed to be received three (3) days after the

date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To Contractor: Merrill Hines dba Final Advocate Forensics
933 Columbia St.
Houston, Texas 77008

To the County: Harris County Institute of Forensic Sciences
1861 Old Spanish Trail
Houston, Texas 77054
Attn.: Julie Prine

Copy To: Harris County Purchasing Agent
1001 Preston, Suite 670
Houston, Texas 77002
Attn.: Luke Herdrich

- B) Either Party may designate a different address by giving the other Party ten (10) days written notice.

10) COMPLIANCE AND STANDARDS

- A) Contractor represents and warrants that Dr. Hines is capable and willing to provide the Services called for in the Agreement, and will render the Services in accordance with the generally accepted standards applicable to the Services. Dr. Hines shall use that degree of care and skill commensurate with the profession to comply with all applicable federal, state, and local laws, ordinances, rules, and regulations relating to the Services and Contractor's performance to be rendered hereunder. Contractor represents that Dr. Hines is fully qualified to perform the Services described in this Agreement.
- B) Contractor and Dr. Hines shall keep confidential the contents of all discussions with County officials. It shall keep confidential the contents of all County records and all other information obtained during Contractor's performance of the Services under this Agreement. Contractor and Dr. Hines shall not release any confidential information unless the County, in writing, authorizes the release of specific information to a third parties.
- C) Neither Contractor nor Dr. Hines shall access any information they is not authorized to receive, nor shall they copy, recreate, or use any proprietary information or Documents obtained in connection with this Agreement other than for the performance of this Agreement.
- D) Contractor warrants and represents that it is not in breach of any other contract, obligation or covenant that would affect Contractor's ability to perform hereunder and, as a result of entering into this Agreement, will not breach any such contract,

obligation, or covenant.

- E) Conflict of Interest: Contractor warrants and represents to the County that it does not have nor shall it knowingly acquire any interest that would conflict in any manner with the performance of its obligations under this Agreement. Furthermore, Contractor warrants that no company or person, other than a bona fide employee, has been employed to solicit or secure this Agreement with the County, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this provision, the County shall have the right to terminate the Agreement without liability or in its discretion to deduct from the Agreement amount, or otherwise recover, the full amount of such fee, commission, brokerage fee, gift, or contingent fee.
- F) Lobbying: Contractor shall not use County funds to directly or indirectly pay any person for influencing or attempting to influence any public employee or official in connection with the awarding of any contract or the extension, continuation, renewal, amendment or modification of any contract. Pursuant to 31 U.S.C.A. § 1352 (2003), if at any time during the Agreement term funding to Contractor exceeds \$100,000.00, Contractor shall file with the County the Federal Standard Form LLL titled “Disclosure Form to Report Lobbying.”
- G) NO FEDERAL EXCLUSION
- i) Contractor warrants that neither Contractor nor any of its employees is an “Ineligible Person.” An “Ineligible Person” is an individual or entity who:
- a) is currently excluded, debarred, suspended, or otherwise ineligible to participate in any federal and/or state grant, health care program, or in federal and/or state procurement or nonprocurement programs. This includes but is not limited to persons who are on the List of Excluded Individuals or Entities of the Inspector General, List of Parties excluded from Federal Programs by the General Services Administration or the Medicaid Sanction List; or,
- b) has been convicted of a criminal offense related to the provision of health care items or services [within the rules and regulations of 42 USC §1320a-7(a)], but has not yet been excluded, debarred, suspended, or otherwise declared ineligible.
- ii) Contractor agrees to report immediately to the County if Contractor becomes an “Ineligible Person” during the term of this Agreement, or to cease assigning any employee to provide Services if the employee becomes an “Ineligible Person” during the term of this Agreement.

- iii) Contractor warrants and represents that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any Federal programs, including but not limited to the following: Department of Health and Human Services (DHHS), Office of Inspector General (OIG) - List of Excluded Individuals & Entities (LEIE); U.S. General Services Administration (GSA) – Excluded Parties List System (EPLS); All States (50) Health & Human Services Commission Medicaid OIG Sanction List; Government Terrorist Watch List (OFAC / Patriot Act); Department of Commerce, Bureau of Industry and Security, Denied Persons List; and Department of Homeland Security, Immigration and Customs Enforcement (ICE) Most Wanted. Contractor must immediately notify the County of any such exclusion or suspension. Contractor warrants and represents that it is in good standing with all State and Federal agencies that have a contracting or regulatory relationship with the County. Contractor warrants and represents that no person who has an ownership or controlling interest in Contractor’s business or who is an agent or managing employee of Contractor has been convicted of a criminal offense related to involvement in any federal program.

- H) County and its designee shall have the right to conduct examinations, studies and audits of the services, payments, and efficiencies provided under this Agreement and County may make such examinations, studies, and audits at any time whether before or after payment. Contractor shall cooperate with such examinations, studies, and audits and provide County with such books, contracts, spreadsheets, and correspondence, including all of Contractor’s backup and support data for billings, and Contractor shall provide access to such records, data, documents and personnel as are requested by County or the County Auditor (the “Records”). All payments made by County are subject to re-evaluation and refund or withholding of future payments conditioned on the results of the audit. This section shall survive termination of this Agreement.

- I) Prior to execution of the Agreement, Contractor shall, as an update, complete Form 1295 in accordance with Tex. Gov’t Code Ann. § 2252.908 concerning “Interested Parties,” Contractor warrants and represents that all the information on the form is complete and accurate.

- J) Whistleblower Protection Act: Contractor understands and agrees that this Agreement and employees working on this Agreement will be subject to the whistleblower rights and remedies in the pilot program on contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908. Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation. Contractor shall insert the substance of this clause; paragraph M

("Whistleblower Protection Act"), in all subcontracts providing services under this Agreement.

- K) Prior to execution of the Agreement, Contractor shall, as an update, complete Form 1295 in accordance with Tex. Gov't Code Ann. § 2252.908 concerning "Interested Parties," Contractor warrants and represents that all the information on the form is complete and accurate.
- L) Foreign Terrorists Organizations. In accordance with Tex. Gov't Code Ann. Chapter 2252 Subchapter F, Contractor warrants and represents that, at the time of execution of this Agreement and for the duration of the Term of this Agreement and any Renewal Terms, Contractor does not appear on the Texas State Comptroller's list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.
- M) Anti-Boycott. Contractor warrants and represents, in accordance with Tex. Gov't Code Ann. § 2271.002, that unless Contractor meets an exemption under subsection (a), then, as required by subsection (b), Contractor's signature on this Agreement constitutes Contractor's written verification that it does not boycott Israel and will not boycott Israel during the term of the contract.
- N) Fraud, Waste or Abuse Hotline. Contractor shall immediately report to the County through the County's Fraud, Waste, or Abuse Hotline and also notify the County in accordance with all the notice provisions contained in this Agreement all suspected or known instances and facts concerning fraud, waste, abuse, or criminal activity under this Agreement. The County's Fraud, Waste, or Abuse Hotline can be accessed by phone at 866-556-8181 or online at <https://secure.ethicspoint.com/domain/media/en/gui/68174/index.html>.
- O) Program Fraud & False or Fraudulent Statements or Related Acts. Recipients, subrecipients, and contractors must comply with 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements, which shall apply to the activities and actions of recipients, subrecipients, contractors, and subcontractors pertaining to any matter resulting from a contract.
- P) Fraud, Waste, and Abuse Reporting. Contractor shall promptly report to the County through the County's Fraud, Waste, or Abuse Hotline and also notify the County in accordance with all the Notice provisions contained in this Agreement of all suspected or known instances and facts concerning fraud, waste, abuse, or criminal activity under this Agreement. The County's Fraud, Waste, or Abuse Hotline can be accessed by phone at 866-556-8181 or online at <https://secure.ethicspoint.com/domain/media/en/gui/68174/index.html>.

11) PUBLIC CONTACT

Contact with the news media, citizens of Harris County, or governmental agencies shall be the responsibility of the County, except that the Contractor may interact with governmental

agencies as necessary to fulfill the services of this Contract. Under no circumstances shall Contractor release any material or information developed in the performance of its Services without the express written permission of the County.

12) INDEMNIFICATION

THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT HOWEVER CAUSED, AND NO PAYMENT, PARTIAL PAYMENT, OR COMPLETION OF SERVICES IN WHOLE OR IN PART SHALL WAIVE OR RELEASE ANY OF THE PROVISIONS OF THIS ARTICLE.

CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, SUCCESSORS AND ASSIGNS (“INDEMNIFIED PARTIES”) FROM AND AGAINST ALL CLAIMS AND LIABILITY DUE TO THE ACTIVITIES OF CONTRACTOR, OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL, PERFORMED UNDER THIS AGREEMENT AND WHICH RESULT FROM ANY NEGLIGENT ACT, ERROR, OR OMISSION; INTENTIONAL TORT; INTELLECTUAL PROPERTY INFRINGEMENT; OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER; COMMITTED BY CONTRACTOR OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL.

CONTRACTOR SHALL ALSO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING BUT NOT LIMITED TO, REASONABLE ATTORNEY’S FEES AND EXPERT WITNESS FEES, WHICH MIGHT BE INCURRED BY THE COUNTY, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES WHICH MIGHT BE IMPOSED ON THE COUNTY AS THE RESULT OF SUCH ACTIVITIES BY CONTRACTOR OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL.

COUNTY RESERVES THE RIGHT, AT ITS OWN EXPENSE, TO BE INDEPENDENTLY REPRESENTED BY COUNSEL OF ITS OWN CHOICE IN CONNECTION WITH ANY SUCH SUIT OR PROCEEDING.

13) APPLICABLE LAW AND VENUE

- A) The Agreement is subject to the state and federal laws, orders, rules, and regulations relating to the Agreement and funded by state or federal funds or of applicable conditions of participation in Medicaid or Medicare program(s).
- B) This Agreement is governed by the laws of the State of Texas.
- C) The forum for any action under or related to the Agreement is exclusively in a state or federal court of competent jurisdiction in Texas.

- D) The exclusive venue for any action under or related to the Agreement is in a state or federal court of competent jurisdiction in Houston, Harris County, Texas.

14) TAXES AND CHARGES

- A) The County is a political subdivision under the laws of the State of Texas and claims exemption from sales and use taxes under Tex. Tax Code Ann. §151.309, as amended. The County agrees to provide exemption certificates to Contractor upon request.
- B) The County is neither liable for any personal property taxes, charges, or fees assessed against Contractor nor obligated to reimburse Contractor for any taxes, charges, or fees assessed against Contractor for the supplies provided or any Services rendered.

15) NO PERSONAL LIABILITY; NO WAIVER OF IMMUNITY

- A) Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of the County.
- B) The Parties agree that no provision of this Agreement extends the County's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.
- C) Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by the County of any right, defense, or immunity under the Texas Constitution or the laws of the State of Texas.
- D) The County does not agree to binding arbitration, nor does the County waive its right to a jury trial.

16) OWNERSHIP OF DOCUMENTS; COPYRIGHT

- A) Contractor agrees that for the purposes of assigning copyright ownership, any and all completed or partially completed data, information, reports, programs, inventions, software, firmware, designs, preliminary layouts, record drawings, digital files, photographs, sketches, and all other electronic or hardcopy documents or documentation (the "Documents") developed pursuant to the Services performed under this Agreement, shall be the sole property of the County. If needed to perform the obligations in this section, Contractor will secure consent from Designated Personnel.

- B) Contractor represents that he has the right to assign and hereby assigns to the County all rights, title, copyright ownership and interest in any completed or partially completed data (including source codes), information, reports, programs, inventions, software, firmware, designs, preliminary layouts, record drawings, digital files, photographs, sketches, and all other electronic or hardcopy documents or documentation to be developed or has already been developed, created or invented pursuant to this Agreement or any other agreements that Contractor may currently have or had in the past, with the County.
- C) Within seven (7) days after its development, creation, or invention, Contractor agrees to deliver to the County, copies, in a form acceptable to the County, of any and all such Documents. Contractor may retain one set of reproducible copies of all Documents for the sole use of performing Services for the County. Contractor is expressly prohibited from selling, donating, licensing or otherwise marketing, or divulging to third parties, any Document, or using such Documents in the preparation of other work for any other client, without the express written permission of the County.

17) AUDIT RIGHTS

- A) Audit Rights. The Contractor shall cooperate to the fullest extent with any and all federal, state, local, or County audits related to this Agreement. The Contractor's cooperation shall include, but not be limited to access to all books, records, contracts, spreadsheets, correspondence, and documents, in whatever form, that are applicable to this Agreement and requested by any federal, state, local, or County entity that has rights or jurisdiction over any part of this Agreement or the funds applicable to this Agreement.
- B) Record Retention. The Contractor agrees to provide all books, records, contracts, spreadsheets, correspondence, and documents applicable to this Agreement to the County at the conclusion of this contract. The County can retain all of these records according to its established retention schedule.

18) WAIVER OF BREACH

Waiver by either Party of a breach or violation of any provision of the Agreement is not a waiver of any subsequent breach.

19) SEVERABILITY

If any provision or part of the Agreement or its application to any person, entity, or circumstance is ever held by any court of competent jurisdiction to be invalid for any reason, the remainder of the Agreement and the application of such provision or part of the Agreement to other persons, entities, or circumstances are not affected.

20) SURVIVAL OF TERMS

Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement including, but not limited to the indemnification provision, shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive

21) CONTRACT CONSTRUCTION

- A) This Agreement shall not be construed against or in favor of any Party hereto based upon the fact that the Party did or did not authorize this Agreement.
- B) The headings in this Agreement are for convenience or reference only and shall not control or affect the meaning or construction of this Agreement.
- C) When terms are used in the singular or plural, the meaning shall apply to both.
- D) When either the male or female gender is used, the meaning shall apply to both.

22) SUCCESSORS AND ASSIGNS

- A) The County and Contractor bind themselves and their successors, executors, administrators, and assigns to the other Party of this Agreement and to the successors, executors, administrators, and assigns of such other Party, in respect to all covenants of this Agreement.
- B) Neither the County nor Contractor shall assign, sublet, or transfer their interests in this Agreement without written consent of the other, which will not be unreasonably withheld.

23) NO THIRD-PARTY BENEFICIARIES

- A) The County is not obligated or liable to any party other than Contractor for the performance of this Agreement.
- B) Nothing in the Agreement is intended or shall be deemed or construed to create any additional rights or remedies in any third party.
- C) Nothing contained in the Agreement shall be construed to or operate in any manner whatsoever to increase the rights of any third party, or the duties or responsibilities of County with respect to any third party.

24) EFFECTIVE DATE

The Effective Date of this Agreement will be the date the Agreement is approved by the Parties.

25) ENTIRE AGREEMENT; MODIFICATIONS

- A) This instrument contains the entire Agreement between the Parties relating to the rights herein granted and obligations herein assumed.
- B) Any oral or written representations or modifications concerning this instrument shall not be effective excepting a subsequent written modification signed by both Parties.

26) EXECUTION, MULTIPLE COUNTERPARTS

This Agreement may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party warrants that the undersigned is a duly authorized representative with the power to execute this Agreement.

[EXECUTION PAGE FOLLOWS]

MERRILL HINES DBA FINAL ADVOCATE
FORENSICS, PLLC

By: 
Dr. Merrill Hines
President

Date: 6/26/2024

HARRIS COUNTY

By: _____
LINA HIDALGO
County Judge

Date: _____

APPROVED AS TO FORM:
CHRISTIAN D. MENEFFEE
COUNTY ATTORNEY

By: Manasi Tahiliani
Manasi Tahiliani
Assistant County Attorney
CAO No.: 24GEN1505

ORDER OF COMMISSIONERS COURT
Authorizing Execution of an Agreement

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the City of Houston, Texas, on _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES
AGREEMENT BETWEEN HARRIS COUNTY AND MERRILL HINES DBA FINAL
ADVOCATE FORENSICS, PLLC**

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order adopted follows:

IT IS ORDERED that County Judge Lina Hidalgo be, and she is hereby authorized to execute, for and on behalf of Harris County, a Professional Services Agreement with Merrill Hines dba Final Advocate Forensics, PLLC to provide medical examiner services for the Harris County Institute of Forensic Sciences for an amount not to exceed Twenty-Two Hundred Thousand and No/100 Dollars (\$220,000.00).

All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.