



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

September 2, 2021

**COVID-19**

Commissioners Court  
Harris County, Texas

**RE: Public Health or Safety Exemption – Local Government Code § 262.024 (a)(2)**

Members of Commissioners Court:

This is a transmittal of the agreement for the following:

**Description:** Administrative Services for Healthcare Staffing Resources for Harris County Public Health Services

**Vendor:** Southeast Texas Regional Advisory Council

**Term:** August 30, 2021 through October 4, 2021

**Amount:** \$1,500,000

**Reviewed by:**   X   Public Health Services   X   Harris County Purchasing

The Agreement for these services has been executed by the County Judge.

Sincerely,

A handwritten signature in black ink, appearing to read "DeWight Dopslauf", written over a horizontal line.

DeWight Dopslauf  
Purchasing Agent

JG

Attachment

cc: Public Health Services  
Vendor

**FOR INCLUSION ON COMMISSIONERS COURT AGENDA SEPTEMBER 14, 2021**

**AGREEMENT BETWEEN HARRIS COUNTY SOUTHEAST TEXAS REGIONAL  
ADVISORY COUNCIL**

THE STATE OF TEXAS     §  
                                     §  
COUNTY OF HARRIS     §

This Agreement is made and entered into by and between Harris County ("County"), a body corporate and politic under the laws of the State of Texas acting by and through its Harris County Public Health Services ("Department"), and SouthEast Texas Regional Advisory Council ("SETRAC" or "Contractor"). The County and Contractor are referred to herein collectively as the "Parties" and individually as a "Party."

***Recitals***

**WHEREAS**, in December 2019, a novel coronavirus known as SARS-CoV-2 ("COVID-19") was first detected in Wuhan, Hubei Province, People's Republic of China, causing outbreaks of COVID-19 that has now spread globally;

**WHEREAS**, the Secretary of Health and Human Services ("HHS") declared a public health emergency in the United States on January 31, 2020, under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID-19, which has now been extended through October 2021;

**WHEREAS**, the President of the United States issued a Proclamation on Declaring a National Emergency Concerning the COVID-19 Outbreak on March 13, 2020, in which the proclamation clearly delineates the nation's hospitals to prepare, contain and combat COVID-19;

**WHEREAS**, in or around the summer of 2021, the Centers for Disease Control and Prevention recognized an increased transmission of the more infectious Delta variant of COVID-19, the predominant strain of the virus in the United States;

**WHEREAS**, the Federal Emergency Management Agency ("FEMA") has recognized that increased transmission of COVID-19 has resulted in renewed strains on medical personnel availability throughout the country;

**WHEREAS**, in its response to the COVID-19 pandemic, the County has taken and will continue to take emergency protective measures at the direction and guidance of federal, state, and local leaders, including public health officials, to prepare, contain and combat COVID-19;

**WHEREAS**, as a part of its emergency protective measures, the County has determined it necessary to provide necessary Health Care Professionals to local hospitals in need of additional personnel to address the increase in COVID-19 infected individuals in and around Harris County, understanding that such costs may be reimbursed with FEMA Public Assistance funding and/or other federal sources;

**WHEREAS**, the County intends on utilizing data provided by SETRAC in accordance with this

Agreement to determine how to best allocate additional healthcare professionals to hospitals throughout Harris County experiencing a shortage of healthcare personnel to address the surge in COVID-19 infection rates;

**WHEREAS**, the County intends to seek reimbursement from FEMA for certain or all of the costs incurred under the Agreement for the aforementioned services;

**WHEREAS**, the County finds this Agreement is authorized as part of County's emergency response to the COVID-19 Public Health Disaster pursuant to Section 418.108 of the Texas Government Code. Therefore, pursuant to Section 262.024(a)(2) of the Texas Local Government Code and in accordance with Section 418.108 of the Texas Government Code, this Agreement is authorized and exempt from the requirements of Section 262.023 of the Texas Local Government Code (the Purchasing Act);

NOW, THEREFORE in consideration of the premises and the mutual covenants herein contained, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree the following provisions are hereby incorporated into the Agreement:

**1) GENERAL SCOPE OF SERVICES**

- A) Contractor agrees to provide administrative services to the Department to fill unmet staffing needs among Harris County hospitals, as detailed herein and in the SETRAC Scope of Work (the "Services"), attached hereto as Exhibit A and incorporated herein by reference.
- B) Contractor warrants and represents it will deliver the Services in compliance with all applicable federal, state, and local laws, ordinances, rules, and regulations relating to the Services. Contractor shall perform the Services in accordance with the grant requirements attached as an Addendum to this Agreement and incorporated herein by reference as if set forth word for word.
- C) Unless otherwise stated in this Agreement, words which have well-known technical or industry meanings are used in accordance with such recognized meaning.
- D) Contractor warrants and represents that it is registered with the Texas Secretary of State to transact business in Texas, and is current on all state and local fees and taxes, including but not limited to Franchise Account Status with the Texas Comptroller of Public Accounts of in good standing.
- E) Contractor warrants and represents that neither it, nor any of its principals or other affiliated entities, 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.

- F) 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.
- G) Contractor shall verify that each Subcontractor it retains to perform Services pursuant to this Agreement are in compliance with Sections D and E and F above.

## 2) **INDEPENDENT PARTIES**

- A) The Services performed by Contractor under this Agreement are performed by Contractor as an independent contractor. This Agreement is not intended to create and shall not constitute a partnership or joint venture between the Parties. Contractor shall have and retain the exclusive right of control over employment, firing, discipline, compensation, insurance, and benefits in accordance with the applicable laws of the State of Texas. Contractor has no authority to bind or otherwise obligate the County orally, in writing or by any act or omission. Nothing contained herein shall establish an agency, employee-employer relationship, partnership, joint enterprise, joint employer, or joint venture relationship by or between the County and Contractor.
- B) **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, OR EXPENSES THAT MAY BE INCURRED BY COUNTY AS A RESULT OF THIS DETERMINATION.**
- C) Contractor warrants that it will comply with all federal and state laws including but not limited to the Prompt Pay Act, in the payment of its workers.
- D) Contractor is solely responsible for the payment of wages and any applicable benefits to workers for Services performed for the County. Contractor shall be responsible for withholding federal and state income taxes, paying Federal Social Security taxes, maintaining unemployment insurance and maintaining workers' compensation insurance in an amount and under such terms as required by the applicable laws of the State of Texas.

**THE COUNTY'S PAYMENT IS TO THE CONTRACTOR. THE COUNTY SHALL HAVE NO LIABILITY, DIRECTLY OR INDIRECTLY, FOR PAYMENT TO CONTRACTOR'S WORKERS OR SUBCONTRACTORS OR HEALTHCARE PERSONNEL PROCURED ON BEHALF OF**

**HOSPITALS AS CONTEMPLATED IN THIS AGREEMENT. CONTRACTOR SHALL INDEMNIFY AND HOLD THE COUNTY HARMLESS FROM ANY AND ALL SUCH CLAIMS.**

- E) Contractor's workers are not entitled to any contributions by or benefits from the County for any pension plan, bonus plan or any other benefit plan. Contractor and the workers furnished by Contractor shall not be entitled to any fringe benefits or similar benefits afforded to employees of the County. The County is not liable for payment of any federal or state taxes and charges including, but not limited to, income withholding taxes, social security, unemployment, workers' compensation, and similar taxes and charges. This Article shall survive the expiration or termination of this Agreement.
- F) The County is not responsible to Contractor or Contractor's workers for payment of any overtime compensation or any additional payments pursuant to the Fair Labor Standards Act, 29 U.S.C. Section 207 9a(1), as amended; the Texas Pay Day Act; the Equal Pay Act; Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e, *et al.*, as amended; or any provisions of the *Texas Labor Code Ann.*, as amended.
- G) Contractor shall not have the authority to enter into contracts or agreements on behalf of the County.

**3) TERM**

The term shall be for a period beginning upon execution by the Parties and remain in full force and effect for five (5) weeks.

**4) CONTRACTOR'S COMPENSATION**

- A) Subject to the Limitation of Appropriation, the County agrees to pay Contractor according the amount found in the section 6 below. This compensation incorporates all charges such as labor, equipment, material, delivery and any other costs incurred.
- B) Contractor shall not perform any Services until it receives a Purchase Order from the County. Any Services performed prior to the receipt of a Purchase Order shall be at the Contractor's sole expense.
- C) The Contractor understands and agrees that, in accordance with the Texas Constitution, the County is prohibited from paying Contractor in advance for any of the Services or deliverables.

**5) TERMS OF PAYMENT**

- A) Contractor shall submit an invoice upon the Department's acceptance of the equipment, product or Services. Each invoice shall include a description of the equipment, product or Service and the price for each. All invoices MUST be submitted by email to: [VENDORINVOICES@HCTX.NET](mailto:VENDORINVOICES@HCTX.NET) and by mail to : Harris County Auditor, Attn: Accounts Payable, 1001 Preston 8th floor, Houston, Texas 77002. The invoice shall be in a form acceptable to the County Auditor and, at a minimum, include such detail as may be requested by the County Auditor for verification purposes.
- B) The invoices shall, at a minimum, include a description of the Deliverable(s), the cost, and the total amount billed for the Deliverable(s). After receipt of an invoice, the Auditor will forward it to the Department, which shall review and approve it with such modifications as may be deemed appropriate, and then return, with any modifications, to the County Auditor for payment. The County shall pay each invoice as approved by the County Auditor in accordance with the laws of the State of Texas. The County may exercise any and all rights to set off payment in the event of overpayment by the County and or funds owed to the County under this Agreement.

**6) LIMITATION 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 One Million Five Hundred Thousand and 00/100 Dollars (\$1,500,000). 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 his 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 its 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.
- D) With regard to the renewal or extension of this Agreement, the County has not allocated any funds for any renewal or extension period beyond the current fiscal year. Therefore, if the County exercises any renewal option, the renewal is subject to the future allocation and certification of funds for the renewal period.

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 its

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 it deems confidential or privileged.

- D) Electronic Mail Addresses. Contractor affirmatively consents to the disclosure of its 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) County's Termination for Convenience. The County may terminate this contract for convenience, in whole or in part, by providing fourteen (14) days notice in writing to the Contractor of such termination, and specifying the effective date thereof ("Notice of Termination for Convenience"). If the termination is for the convenience of the County, the County shall compensate Contractor for work or materials fully and adequately provided through the effective date of termination. No amount shall be paid for unperformed work or materials not provided, including anticipated profit. Contractor shall provide documentation deemed adequate by the County to show the work actually completed or materials provided by Contractor prior to the effective date of termination. This contract shall terminate on the effective date of the Notice of Termination.
- B) County's Termination for Cause. If Contractor fails to perform pursuant to the terms of this contract, the County shall provide written notice to Contractor specifying the default ("Notice of Default"). If Contractor does not cure such default within the time required by the County, the County may terminate this contract for cause. If Contractor fails to cure a default as set forth above, the County may, by written notice to Contractor, terminate this contract for cause, in whole or in part, and specifying the effective date thereof ("Notice of Termination for Cause"). If the termination is for cause, Contractor shall be compensated for that portion of the work or materials provided which has been fully and adequately completed and accepted by the County as of the date



the County provides the Notice of Termination. In such case, the County shall have the right to take whatever steps it deems necessary to complete the project and correct Contractor's deficiencies and charge the cost thereof to Contractor, who shall be liable for the full cost of the County's corrective action, including reasonable overhead, profit and attorneys' fees, to the extent recoverable from Contractor under Texas law.

- C) Reimbursement; Damages. The County shall be entitled to reimbursement for any compensation paid in excess of work rendered or materials provided and shall be entitled to withhold compensation for defective work or other damages caused by Contractor's performance of the work.
- D) Force Majeure. In the event that either Party is unable to perform any of its 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.
- E) 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.
- F) Agreement Transition. In the event the Agreement ends by either expiration or termination, Contractor shall assist in the transition until such time that a new contractor can be completely operational. Contractor acknowledges its responsibility to cooperate fully with the replacement contractor and the County to ensure a smooth and timely transition to the replacement contractor. Such transitional period shall not extend more than ninety (90) days beyond the expiration/termination date of the Agreement, or any extension thereof. During any transition period, all other terms and conditions of the Agreement shall remain in full force and effect as originally written.

**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 SETRAC:                 SETRAC  
                                  1111 N. Loop West, Ste 160  
                                  Houston, TX 77008  
                                  Attn: Darrell Pile, CEO

To the County:           Harris County Public Health Services  
                                  2223 West Loop South  
                                  Houston, Texas 77027  
                                  Attn:

- 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 it is capable and willing to provide the Services called for in the Agreement, and agrees to render the Services in accordance with the generally accepted standards applicable to the Services. Contractor 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 Contractor and its personnel are fully qualified to perform the Services and provide the deliverables described in this Agreement.
- B) Contractor agrees to keep confidential the contents of all its discussions with County officials. Contractor agrees to keep confidential the contents of all County records and all other information obtained during Contractor's performance of Services under this Agreement. Contractor shall not release any confidential information unless the County, in writing, authorizes Contractor to release specific information to any third parties.

- C) Contractor shall not access any information it is not authorized to receive, nor shall Contractor 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 shall not divulge or otherwise make use of the trade secrets or confidential information, procedures, or policies of any former employer, client, or customer in the performance of this Agreement. Neither shall Contractor copy, recreate, or use any proprietary information of any third party in the performance of Services under this Agreement except to the extent authorized by such third parties.
- E) 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.
- F) Contractor warrants and represents that it is registered with the Texas Secretary of State to transact business in Texas, and is current on all state and local fees and taxes, including but not limited to Franchise Account Status of "in good standing" with the Texas Comptroller of Public Accounts.
- G) Contractor warrants and represents that neither it, nor any of its principals or other affiliated entities, 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.
- H) 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.
- I) 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."

J) 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.
- K) 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 records, data, documents, 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. 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.

- L) 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.
- M) 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.
- N) 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.
- O) Anti-Boycott. Contractor warrants and represents, in accordance with Tex. Gov't Code Ann. § 2270.002, 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.

#### 11) PUBLIC CONTACT

Contact with the news media, citizens of Harris County, or governmental agencies shall be the responsibility of the County. 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 ISSUANCE OF EITHER A CERTIFICATE OF SUBSTANTIAL COMPLETION OR FINAL SYSTEM ACCEPTANCE 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 REASONABLE ATTORNEY'S 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.

CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD THE COUNTY HARMLESS FROM ANY AND ALL LIABILITY, EXPENSE, JUDGMENT, SUIT, CAUSE OF ACTION, OR DEMAND FOR PERSONAL INJURY, DEATH, OR DIRECT DAMAGE TO TANGIBLE PROPERTY WHICH MAY ACCRUE AGAINST THE COUNTY TO THE EXTENT IT IS CAUSED BY THE NEGLIGENCE OF CONTRACTOR OR ANOTHER ENTITY OVER WHICH

**CONTRACTOR EXERCISES CONTROL, WHILE PERFORMING SERVICES UNDER THIS AGREEMENT. COUNTY WILL GIVE CONTRACTOR PROMPT, WRITTEN NOTICE OF ANY SUCH CLAIM OR SUIT. COUNTY SHALL COOPERATE WITH CONTRACTOR IN ITS DEFENSE OR SETTLEMENT OF SUCH CLAIM OR SUIT.**

**IF A RESTRAINING ORDER OR TEMPORARY INJUNCTION IS GRANTED DUE TO ANY ACT, ERROR, OR OMISSION COMMITTED BY CONTRACTOR OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL, CONTRACTOR SHALL MAKE EVERY EFFORT, INCLUDING BUT NOT LIMITED TO SECURING A SATISFACTORY BOND, TO OBTAIN THE SUSPENSION OF ANY SUCH RESTRAINING ORDER OR TEMPORARY INJUNCTION.**

**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) PROHIBITION ON LIENS**

In accordance with Texas Property Code §43.002, Contractor, or its contractors or agents, will not create or place, or permit to be created or placed, a lien or any other encumbrance on County property. If any such lien or encumbrance is placed on County property, Contractor shall pursue any lawful effort, including but limited to seeking relief in a court of competent jurisdiction, to remove the lien or encumbrance from the property.

**16) 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.

**17) INSURANCE REQUIREMENTS**

- A) The Contractor shall, at all times during the term of this Agreement, maintain insurance coverage with not less than the type and requirements in this Article. Such insurance is to be provided at the sole cost of the Contractor. These requirements do not establish limits of the Contractor's liability.
  - i) All policies of insurance shall waive all rights of subrogation against the County, its officers, employees, and agents.
  - ii) Upon request, certified copies of original insurance policies shall be furnished to the County.
  - iii) The County reserves the right to require additional insurance as it deems it necessary.



B) Contractor shall maintain at a minimum:

- i) Commercial General Liability Occurrence Form including, but not limited to, Premises and Operations, Products Liability Broad Form Property Damage, Contractual Liability, Personal and Advertising Injury Liability and where the exposure exists, coverage for watercraft, blasting collapse and explosions, blowout, cratering and underground damage.

One Million Dollars (\$1,000,000.00) each occurrence Limit Bodily Injury; Products-Completed/Operations Limit One Million Dollars (\$1,000,000.00); One Million Dollars Personal and Advertising Injury Limit (\$1,000,000.00); General Aggregate Two Million Dollars (\$2,000,000.00) per project; Umbrella/Excess Liability One Million Dollars (\$1,000,000.00) Each Occurrence, Two Million Dollars (\$2,000,000.00) Aggregate.

The County shall be named as an “additional insured” on the commercial general liability policy and any separate policies, where applicable, covering the requirements of this Article.

- ii) Professional/Errors and Omissions Liability, One Million Dollars (\$1,000,000.00) Each Occurrence, One Million Dollars (\$1,000,000.00) Aggregate.
- iii) Workers’ Compensation (with Waiver of subrogation to the County) Employer’s Liability, including all states, U.S. Longshoremen, Harbor Workers and other endorsements, if applicable to the Project, and in accordance with Texas state law.
- iii) Automobile Liability Coverage: Combined single limit of One Million Dollars (\$1,000,000.00) Combined Liability Limits for Bodily Injury and Property Damage Combined. The County shall be named as an “additional insured” on the automobile policy.
- v) Proof of insurance with proof of waiver of subrogation and County designated as an “additional insured” must be returned attached to the signed Agreement as Exhibit B, which is attached hereto and incorporated herein by reference.

**18) NO FEDERAL EXCLUSION**

- A) Contractor warrants that Contractor is not an "Ineligible Person." An "Ineligible Person" is an individual or entity who:
  - i) 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 non-procurement 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,
  - ii) 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.
- B) Contractor agrees to report immediately to the County if Contractor becomes an "Ineligible Person" during the term of this Agreement.

**19) 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.
- B) Contractor represents that it 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.

## 20) **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 retain within the boundaries of Harris County, for six (6) years after the expiration of this Agreement, all books, records, contracts, spreadsheets, correspondence, and documents applicable to this Agreement. The Contractor will retain and make available, and insert the requisite clause in each applicable subcontract requiring its subcontractors to retain and make available, the books, records, contracts, spreadsheets, correspondence, and documents applicable to this Agreement.

## 21) **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.

## 22) **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.

## 23) **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.

**24) 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 author 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.

**25) 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) Contractor shall not assign, sublet, or transfer its or his interest in this Agreement without written consent of the County.

**26) 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.

**27) EFFECTIVE DATE**

The Effective Date of this Agreement will be the date the Agreement is approved by the Commissioners Court of Harris County.


28) **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.

29) **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.

SOUTHEAST TEXAS REGIONAL  
ADVISORY COUNCIL

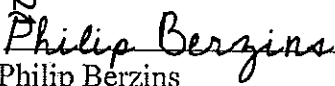
By:   
Darrell Pile  
Chief Executive Officer  
Southeast Texas Regional  
Advisory Council, SETRAC

Date: 08/28/2021

HARRIS COUNTY

By:   
LINA HIDALGO  
COUNTY JUDGE  
Date: \_\_\_\_\_

APPROVED AS TO FORM:  
Christian D. Menefee  
COUNTY ATTORNEY

By:   
Philip Berzins  
Assistant County Attorney  
C.A. File 21GEN2417

30 August 2021

Exhibit A

SETRAC Scope of Work

(Follows Behind)

### **SETRAC Scope of Work**

- SETRAC will build from its existing relationship with its members hospitals to identify staffing needs by discipline, i.e. RNs, LVNs, ED specialties, ICU specialties, General floor specialties, Respiratory Therapists, Pediatrics, Nursery, etc., to effectively address emergency circumstances in response to the COVID-19 pandemic.
- SETRAC will prioritize the needs and place staff as quickly as the staffing agency identifies the staff.
- SETRAC will work with the staffing agency to jointly problem solve and embrace whatever decisions most quickly bring nurses to bedsides.
- SETRAC will identify staff designated to fulfill this contract. If necessary, SETRAC will add staff so that manpower quickly meets needs.
- SETRAC's team will be led by Lori Upton, Vice President, SETRAC Disaster Preparedness and Response or a senior executive of SETRAC in her absence.
- SETRAC will keep the County informed of progress and challenges through a County point of contact at least daily.
- SETRAC will provide 24/7 communications to handle problems and needs that may emerge after hours.
- SETRAC will solicit input from facilities to improve the service and to proactively problem solve.
- SETRAC will maintain records describing assignments of agency personnel.
- SETRAC will work with the agency to reconcile records to ensure billing to the County by the agency is accurate.
- SETRAC will work with the County and agency to accomplish an orderly scale down and conclusion of services as demand declines.
- SETRAC agrees that this contractual relationship with the County can end with fourteen days' notice by either party with or without cause.
- SETRAC will continue its normal operations and provide unique Crisis updates to the County.

Exhibit B  
Contractor's Proof of Insurance  
(Follows Behind)





SETEX-1

OP ID: DB

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/31/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> VFIS of Texas 13625 Ronald W Reagan Blvd Bldg 3, Suite 100 Cedar Park, TX 78613 Glenn Hastings	<b>800-252-9435</b>	<b>CONTACT NAME:</b> Glenn Hastings <b>PHONE (A/C, No, Ext):</b> 800-252-9435 <b>FAX (A/C, No):</b> 512-448-9929 <b>E-MAIL ADDRESS:</b>
<b>INSURED</b> Southeast Texas Regional Advisory Council 1111 N Loop West, Ste 160 Houston, TX 77008-5806		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> National Union Fire <b>INSURER B:</b> Texas Mutual Ins Company <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Professional <input type="checkbox"/> Healthcare Liab GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			VFNU-TR-0014500	07/01/2021	07/01/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			VFNU-CM-0014501	07/01/2021	07/01/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			VFNU-TR-0014500	07/01/2021	07/01/2022	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 8,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N <input type="checkbox"/> If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	0001127242 NAIC #22945	07/01/2021	07/01/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

\*\*SEE NOTES\*\*

## CERTIFICATE HOLDER

## CANCELLATION

HARRISC

HARRIS COUNTY  
1001 PRESTON 8TH FLOOR  
HOUSTON, TX 77002

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Barbara R. Marzan*

# NOTEPAD

Southeast Texas Regional Advisory C SETEX-1  
INSURED'S NAME council OP ID: DB

PAGE 2  
Date 08/31/2021

RE: Contract #JG083121

Harris County is an Additional Insured for General Liability per attached form VGL101(01-20) and on the Auto Liability per attached form AU1003(01-20).

Transfer of Rights of Recovery Against Others to Us provisions are included in General Liability form VGL101(01-20) and Auto Liability form CA 00 01 1013(2011). Forms are attached.

Workers' Compensation And Employers Liability Policy includes Blanket Waiver of Subrogation per attached form WC 42 03 04.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

## AUTO LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

1. The following revisions are made to **Section II - Covered Autos Liability Coverage** and **Section IV - Business Auto Conditions**:

#### **VOLUNTEERS, EMPLOYEES, AND ELECTED OR APPOINTED OFFICIALS AS INSURED - NON-OWNED AUTO LIABILITY COVERAGE**

- a. **Coverage A.1., Who Is An Insured**, under **Section II - Covered Autos Liability Coverage** is modified by the addition of paragraphs **d.**, **e.** and **f.**, as follows:
  - d. Any volunteer or "employee" of yours while using a covered "auto" you don't own, hire or borrow, while performing duties related to the conduct of your business. Anyone else who furnished that "auto" is also an "insured".
  - e. Your elected or appointed officials while using a covered "auto" you don't own, hire or borrow, while performing duties related to the conduct of your business. Anyone else who furnished that "auto" is also an "insured".
  - f. Your commissions, authorities, boards or agencies, their commissioners, officers and members while using a covered "auto" you don't own, hire or borrow, but only while acting within the authority granted by you and only while performing duties related to the conduct of your business. Anyone else who furnished that "auto" is also an "insured".

#### **OWNER OF TEMPORARY SUBSTITUTE AUTO AS AN INSURED - PRIMARY BASIS**

- b. **Coverage A.1., Who Is An Insured**, under **Section II - Covered Autos Liability Coverage** is modified by the addition of paragraph **g.**, as follows:
  - g. The owner or anyone else from whom you rent, lease or borrow a substitute "auto" is an "insured" but only for that covered "auto". The substitute must be for a similar scheduled "auto" which is out of normal use because of its breakdown, repair, servicing, loss or destruction.
- c. The following paragraph is added to **B.5., Other Insurance of Section IV - Business Auto Conditions**:
  - e. Notwithstanding condition **5.a.** and **5.d.** above, a substitute "auto" as described under paragraph **g.** of **Section II - Covered Autos Liability Coverage, Coverage A.1., Who Is An Insured**, is deemed a covered "auto" you own. This coverage form provides primary insurance with no consideration of or contribution from other insurance for such "auto".

## **OWNER OF COMMANDEERED AUTO AS AN INSURED - PRIMARY BASIS**

- d. **Coverage A.1., Who Is An Insured**, under **Section II - Covered Autos Liability Coverage** is modified by the addition of paragraph h., as follows:
  - h. The owner of a "commandeered auto" is an "insured" while the "auto" is in your temporary care, custody or control and is being used as part of an "emergency situation".
- e. The following paragraph is added to **B.5., Other Insurance of Section IV - Business Auto Conditions**:
  - f. Notwithstanding condition 5.a. and 5.d. above, a "commandeered auto" is deemed a covered "auto" you own. This coverage form provides primary insurance with no consideration of or contribution from other insurance for such "auto".

## **2. The following revisions are made to **Section II - Covered Autos Liability Coverage**:**

### **ADDITIONAL INSURED - AUTOMATIC STATUS**

- a. **Coverage A.1., Who Is An Insured**, is modified by the addition of paragraph i., as follows:
  - i. Any person or organization for whom you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional "insured" on your policy, but only to the extent that person or organization qualifies as an "insured" under **Coverage A.1., Who Is An Insured**.  
  
Any coverage provided hereunder shall be excess over any other valid and collectible insurance available to the additional "insured" whether primary, excess, contingent or on any other basis unless a written contract or agreement specifically requires that this insurance be primary in which case any other insurance available to the additional "insured" shall be considered excess and non-contributing.

### **ADDITIONAL EXPENSES YOU INCUR AT OUR REQUEST**

- b. **Coverage A.2.a.(4), Coverage Extensions, Supplementary Payments**, is replaced by the following:
  - (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$300 a day because of time off from work.

### **EXPECTED OR INTENDED INJURY**

- c. **Exclusion B.1., Expected Or Intended Injury**, is replaced by the following:

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured". This exclusion does not apply to expected or intended "bodily injury" or "property damage" resulting from actions taken to protect persons or property and arising out of the use of a covered "auto".

### **BODILY INJURY TO VOLUNTEER EMERGENCY SERVICE PROVIDERS**

- d. **Exclusion B.4., Employee Indemnification And Employer's Liability**, is amended by the addition of paragraphs c. and d., as follows:
  - c. Any volunteer, if you provide or are required to provide any benefits for such volunteer under any Workers' Compensation or disability benefits law or under any similar law.
  - d. The spouse, child, parent, brother or sister of that volunteer as a consequence of paragraph c. above.

### **BODILY INJURY TO FELLOW VOLUNTEERS OR EMPLOYEES**

- e. **Exclusion B.5., Fellow Employee**, is deleted.

#### 4. Loss Payment – Physical Damage Coverages

At our option, we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

#### 5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

#### B. General Conditions

##### 1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this Coverage Form.

##### 2. Concealment, Misrepresentation Or Fraud

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceals or misrepresents a material fact concerning:

- a. This Coverage Form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this Coverage Form.

##### 3. Liberalization

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

#### 4. No Benefit To Bailee – Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

#### 5. Other Insurance

- a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Covered Autos Liability Coverage this Coverage Form provides for the "trailer" is:

- (1) Excess while it is connected to a motor vehicle you do not own; or
- (2) Primary while it is connected to a covered "auto" you own.

- b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

- c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Covered Autos Liability Coverage is primary for any liability assumed under an "insured contract".

- d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

#### 6. Premium Audit

- a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.
- b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

7. **Transfer of Rights of Recovery Against Others To Us**

If the insured has rights to recover all or part of any payment we have made under this coverage part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.

8. **When We Do Not Renew**

If we decide not to renew this coverage part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date. If notice is mailed, proof of mailing will be sufficient proof of notice.

**SECTION V. DEFINITIONS**

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters.
2. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".
3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
  - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, provided the injury or damage does not occur in the course of travel or transportation to or from any place not included in a. above; or
  - c. All other parts of the world if:
    - (1) The injury or damage arises out of:
      - (a) Goods or products made or sold by you in the territory described in a. above; or
      - (b) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; and
    - (2) The insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.
5. "Emergency operations" means actions:
  - a. Which are urgent responses for protection of property, human life, health or safety; and
  - b. Which result from the performing or attempting to perform firefighting services, hazardous materials unit services, first aid, ambulance or rescue squad services, or related services, including the stabilizing or securing of an emergency scene; and
  - c. Which are sanctioned by:
    - (1) A fire department, hazardous materials unit, or first aid, ambulance or rescue squad qualifying as an insured under this coverage part; or
    - (2) An officer, volunteer member or "employee" of such organization.
6. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
7. "Employment practices" means an actual or alleged improper employment related practice, policy, act or omission involving an actual, prospective, or former volunteer or "employee", including:
  - a. Failing to hire or refusing to hire;
  - b. Wrongful dismissal, discharge, or termination of employment or membership, whether actual or constructive;

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as **SUPPLEMENTARY PAYMENTS**. Notwithstanding the provisions of paragraph 2.b.(2) of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as **SUPPLEMENTARY PAYMENTS** ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in paragraph f. above, are no longer met.

## **SECTION II. WHO IS AN INSURED**

1. If you are:
  - a. An organization other than a partnership, joint venture or limited liability company, you are an insured.
  - b. A partnership or joint venture, you are an insured. Your members and your partners are also insureds, but only within the course and scope of your operations.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only within the course and scope of your operations. Your managers are insureds, but only within the course and scope of your operations.
2. In addition to you, each of the following is an insured:
  - a. **Volunteers and Employees.** Your volunteers, "employees", elected or appointed officers, directors, commissioners or trustees, but only for acts within the course and scope of their employment by you, membership with you or authorized duties on your behalf.
  - b. **Medical Directors.** Physicians who are your medical directors, but only for acts within the course and scope of their medical director duties on your behalf.
  - c. **Good Samaritans.** Your volunteers, "employees", elected or appointed officers, directors, commissioners or trustees while acting as a Good Samaritan independently of his or her activities on your behalf, but only when he or she encounters the scene of an emergency requiring sudden action. In no event will such person who responds to the scene of an emergency with or for any other emergency service organization be an insured.
  - d. **Owners of Commandeered Equipment.** The owner of commandeered equipment other than an "auto" is an insured while the equipment is in your temporary care, custody or control and is being used as part of an "emergency operation".
  - e. **Real Estate Managers.** Any person or any organization while acting as your real estate manager.
  - f. **Blanket Additional Insureds.** Any person or organization required to be an additional insured under an "insured contract", if agreed to by you prior to the "bodily injury", "property damage", "personal and advertising injury", or "medical incident", but only with respect to liability arising out of your premises or operations
3. **Mobile Equipment.** With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to "property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

## TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the schedule where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

The premium for this endorsement is shown in the Schedule.

### Schedule

1. ☐ Specific Waiver

Name of person or organization

☒ Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations: All Texas operations

3. Premium:

The premium charge for this endorsement shall be **2.00** percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium: Included, see Information Page

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.  
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)  
This endorsement, effective on 7/1/21 at 12:01 a.m. standard time, forms a part of:

Policy no. 0001127242 of Texas Mutual Insurance Company effective on 7/1/21

Issued to: SOUTHEAST TEXAS REGIONAL ADVISORY COUNCIL

This is not a bill

NCCI Carrier Code: 29939



Authorized representative

6/1/21



## **Addendum to Agreement between Harris County Public Health and SouthEast Texas Regional Advisory Council**

By signing this Addendum, Harris County Public Health (the "County") and **SouthEast Texas Regional Advisory Council** ("Vendor") (collectively, the "Parties") agree to incorporate the following provisions into the agreement between the County and Vendor (the "Agreement"), dated August 28, 2021, for the provision of data-driven services to aid the County in placing needed healthcare professionals at various hospitals throughout Harris County. In the event any of these terms and conditions included in this Addendum conflict with terms and conditions included in the Agreement, this Addendum controls.

**WHEREAS**, Vendor is a duly organized entity in the State of Texas in the business of providing technical assistance to State and local governments for clinical and preparedness services;

**WHEREAS**, in December 2019, a novel coronavirus known as SARS-CoV-2 ("COVID-19") was first detected in Wuhan, Hubei Province, People's Republic of China, causing outbreaks of COVID-19 that has now spread globally;

**WHEREAS**, the Secretary of Health and Human Services ("HHS") declared a public health emergency in the United States on January 31, 2020, under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID-19, which has now been extended through October 2021;

**WHEREAS**, the President of the United States issued a Proclamation on Declaring a National Emergency Concerning the COVID-19 Outbreak on March 13, 2020, in which the proclamation clearly delineates the nation's hospitals to prepare, contain and combat COVID-19;

**WHEREAS**, in or around the summer of 2021, the Centers for Disease Control and Prevention recognized an increased transmission of the more infectious Delta variant of COVID-19, the predominant strain of the virus in the United States;

**WHEREAS**, the Federal Emergency Management Agency ("FEMA") has recognized that increased transmission of COVID-19 has resulted in renewed strains on medical personnel availability throughout the country;

**WHEREAS**, in its response to the COVID-19 pandemic, the County has taken and will continue to take emergency protective measures at the direction and guidance of federal, state, and local leaders, including public health officials, to prepare, contain and combat COVID-19;

**WHEREAS**, as a part of its emergency protective measures, the County has determined it necessary to provide necessary healthcare personnel to local hospitals in need of additional personnel to address the increase in COVID-19 infected individuals in and around Harris County,

understanding that such costs may be reimbursed with FEMA Public Assistance funding and/or other federal sources;

**WHEREAS**, the County intends on utilizing data provided by Vendor in accordance with the Agreement to determine how to best allocate additional healthcare professionals to hospitals throughout Harris County experiencing a shortage of healthcare personnel to address the surge in COVID-19 infection rates;

**WHEREAS**, the County and Vendor have executed the Agreement to cover the aforementioned services;

**WHEREAS**, the County intends to seek reimbursement from FEMA for certain or all of the costs incurred under the Agreement;

NOW, THEREFORE in consideration of the premises and the mutual covenants herein contained, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree the following provisions are hereby incorporated into the Agreement:

#### **1.0 Compensation**

Subject to the Limitation of Appropriation, the County agrees to pay Vendor a lump sum of One Million Five Hundred Thousand and 00/100 Dollars (\$1,500,000). This compensation incorporates all charges such as labor, equipment, material, delivery, and any other costs incurred.

Vendor shall not perform any Services until it receives a Purchase Order from the County. Any Services performed prior to the receipt of a Purchase Order shall be at the Vendor's sole expense.

Vendor understands and agrees that, in accordance with the Texas Constitution, the County is prohibited from paying Contractor in advance for any of the Services or deliverables.

#### **2.0 FEMA Funding**

Vendor acknowledges that FEMA financial assistance will be used to fund all or a portion of the Agreement.

#### **3.0 Compliance with Federal Law, Regulations, and Executive Orders**

Vendor shall comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

#### 4.0 No Obligation by Federal Government

Vendor acknowledges that the Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the County, Vendor, or any other party pertaining to any matter resulting from this Agreement and Addendum.

#### 5.0 Program Fraud and False or Fraudulent Statements

Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Vendor's actions pertaining to this Agreement.

#### 6.0 DHS Seal, Logo, and Flags

Vendor shall not use the Department of Homeland Security ("DHS") seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

#### 7.0 Access to Records

In addition to any record requirements found in the Agreement, the following access to records requirements also apply to the Agreement:

- A. Vendor agrees to provide the County, the FEMA Administrator, the Texas Division of Emergency Management ("TDEM"), the Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers, and records of Vendor which are directly pertinent to the Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Vendor shall keep its books, documents, papers, and records available for this purpose for at least five years after the Agreement terminates or expires. This provision does not limit the applicable statute of limitations.
- B. Vendor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. Vendor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under this Agreement, if applicable.
- D. In compliance with the Disaster Recovery Act of 2018, the County and Vendor acknowledge and agree that no language in the Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

#### 8.0 Environmental Compliance

- A. Vendor shall comply with all applicable standards, ordered, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251 et seq.).

- B. Vendor shall report all violations to the County, and understands and agrees that the County will, in turn, report each violation as required to assure notification to FEMA and the appropriate Environmental Protection Agency Regional Office.
- C. Vendor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

#### 9.0 Contract Work Hours and Safety Standards Act

All contracts entered into related to this Agreement shall contain the following language:

- A. Overtime requirements. No contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (A) of this section Vendor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Vendor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.
- C. Withholding for unpaid wages and liquidated damages. FEMA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Vendor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- D. Subcontracts. Vendor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or

lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

10.0      Equal Employment Opportunity

During the performance of this contract, Vendor agrees as follows:

- A. Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. Vendor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. Vendor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- D. Vendor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. Vendor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

- F. Vendor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of Vendor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, the Agreement may be canceled, terminated, or suspended in whole or in part and Vendor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- H. Vendor will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Vendor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:  
  
Provided, however, that in the event Vendor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
- I. The County further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the County is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.
- J. The County agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

- K. The County further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the County agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the County under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

11.0 Suspension and Debarment

- A. Federal regulations restrict the County from contracting with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities, where the contract is funded in whole or in part with federal funds. Accordingly, a contract or subcontract must not be made with any parties listed on the SAM Exclusions list. SAM Exclusions is the list maintained by the General Services Administration that contains the name of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under certain statutory or regulatory authority. Vendor can verify its status and the status of its principals, affiliates, and subcontractors at [www.SAM.gov](http://www.SAM.gov).
- B. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Vendor is required to verify that it, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are not excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- C. Vendor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- D. This certification, found in **Exhibit A**, is a material representation of fact relied upon by the County. If it is later determined that Vendor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to TDEM and the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

- E. Vendor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of this Agreement. Vendor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

12.0 Byrd Anti-Lobbying Amendment

- A. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification as set out in **Exhibit B** of this Addendum. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

13.0 Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms

- A. If Vendor intends to subcontract any portion of the work covered by this Agreement, Vendor must take all necessary affirmative steps to assure that small and minority businesses, women's business enterprises and labor surplus area firms are solicited and used when possible. Affirmative steps must include:
  - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
  - (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.



#### 14.0 Domestic Preference Requirements

- A. As appropriate and to the extent consistent with law, Vendor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this paragraph must be included in all subcontracts and purchase orders for work or products under this Addendum. For purposes of this paragraph:
- (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  - (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

#### 15.0 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

- A. As used in this paragraph, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services as used in this paragraph—
- B. Prohibitions
- (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
  - (2) Unless an exception in this paragraph applies, Vendor and its Subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from FEMA to:
    - i. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
    - ii. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications

equipment or services as a substantial or essential component of any system, or as critical technology of any system;

- iii. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- iv. Provide, as part of its performance of this Purchase Order or Addendum, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

#### C. Exceptions

(1) This paragraph does not prohibit Vendor from providing—

- i. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- ii. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

i. Covered telecommunications equipment or services that:

- Are not used as a substantial or essential component of any system; and
- Are not used as critical technology of any system.
- Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

#### D. Reporting requirement

(1) In the event Vendor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during performance of the Services set forth in this Addendum, or Vendor is notified of such by a Subcontractor at any tier or by any other source, Vendor shall report the information in the manner stated below to the recipient or subrecipient, unless elsewhere in this Addendum are established procedures for reporting the information.

(2) Vendor shall report the following information pursuant to this paragraph:

- a) Within one business day from the date of such identification or notification: The Contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
- b) Within 10 business days of submitting the information above: Any further available information about mitigation actions undertaken or recommended. In addition, Vendor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

E. Subcontracts

- (1) Vendor shall insert the substance of this clause, including this paragraph (E), in all subcontracts and other contractual instruments.

16.0 Procurement of Recovered Materials

- A. In the performance of Agreement if applicable, Vendor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
  - (1) Competitively within a timeframe providing for compliance with the Contract performance schedule;
  - (2) Meeting Contract performance requirements; or
  - (3) At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- C. Vendor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

17.0 Remedies

- A. The Parties agree that any work performed pursuant to the Agreement is compliant with the Agreement terms and applicable Federal, State, and local laws, regulations, and/or ordinances.

- B. If any work performed and/or goods delivered by Vendor fails to meet the requirements of the Agreement, any other applicable standards, codes, or laws, or otherwise breaches the terms of the Agreement, the County may in its sole discretion:
- (1) elect to have Vendor re-perform or cause to be re-performed, at Vendor's sole expense, any of the work which failed to meet the requirements of the Agreement;
  - (2) in the case of goods, reject the goods and require Vendor to provide replacement goods that meet the needs of the County and the terms of the Agreement;
  - (3) hire another contractor to perform the work and deduct any additional costs incurred by the County as a result of substituting contractors from any amounts due to Vendor; or
  - (4) pursue and obtain any and all other available legal or equitable remedies.
- C. The remedies in this Section are in addition to any remedies set out in the Agreement. This Section shall in no way be interpreted to limit the County's right to pursue and obtain any and all other available legal or equitable remedies against Vendor.

#### 18.0 Termination for Cause

- A. If Vendor defaults under the Agreement, the County may either terminate this Agreement, withhold, or suspend payment of all or any part of a request for payment or allow Vendor to cure the default as provided below. The County's right to terminate the Agreement and to withhold or suspend payment for Vendor's default are cumulative of all rights and remedies which exist now or in the future. Default by Vendor occurs if:
- (1) Vendor fails to perform any of its material duties under this Addendum and Purchase Order;
  - (2) Vendor becomes insolvent;
  - (3) all or a substantial part of Vendor's assets are assigned for the benefit of its creditors; or
  - (4) a receiver or trustee is appointed for Vendor.
- B. If a default occurs, the County may, but is not obligated to, deliver a written notice to Vendor describing the default and the termination date. The County, at its sole option, may extend the termination date to a later date. If the County allows Vendor to cure the default and Vendor does so to the County's satisfaction before the termination date, then the termination is ineffective. If Vendor does not cure

the default before the termination date, then the County may terminate the Agreement on the termination date and pay Vendor for all Services performed or goods received, if any, through such date.

- C. To effect final termination, the County must notify Vendor in writing. After receiving the notice, Vendor shall, unless the notice directs otherwise, immediately discontinue all Services under Agreement, and promptly cancel all orders or subcontracts chargeable to the Agreement.

#### 19.0 Termination for Convenience



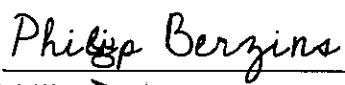
- A. The County may terminate the Agreement for convenience at any time upon fourteen (14) days' notice in writing to the Vendor. Upon receipt of such notice, Vendor shall discontinue all services in connection with the performance of the Agreement. As soon as practicable after receipt of notice of termination, Vendor shall submit a statement to the County showing in detail the services performed and/or goods provided under the Agreement to date of termination for which payment has not yet been paid. The County agrees to pay such charges only up to the maximum amount of the Agreement. Vendor waives any additional claims for damages from the termination without cause including, without limitation, any and all consequential claims, and as the sole right and remedy of Vendor, the County shall compensate Vendor for all authorized work satisfactorily and responsibly completed through the termination date.

#### 20.0 Amendment or Modification

- A. Except as otherwise provided in the Agreement, the Agreement shall be subject to change, amendment, or modification only by the mutual written consent of the Parties hereto.
- B. Any changes to the scope of work, rates, or schedule shall be made in writing and signed by an authorized representative of each Party.

## SIGNATURES

The Parties have executed this Addendum in multiple copies, each of which is an original. Each person signing this Addendum represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Addendum. Each Party represents and warrants to the other that the execution and delivery of this Addendum and the performance of such Party's obligations hereunder have been duly authorized, and that the Addendum is incorporated wholly into the Agreement and is therefore binding on such Party and enforceable in accordance with its terms. The Parties hereby agree that each Party may sign and deliver this Addendum electronically or by electronic means and that an electronic transmittal of a signature, including but not limited to, a scanned signature page, will be as good, binding, and effective as an original signature.

<p>SOUTHEAST TEXAS REGIONAL ADVISORY COUNCIL</p> <p>By: </p> <p>Name: Darrell Pile Title: Chief Executive Officer Date: 08/28/2021</p>	<p>HARRIS COUNTY</p> <p>By: </p> <p>LINA HIDALGO COUNTY JUDGE</p> <p>Date: _____</p>
	<p>APPROVED AS TO FORM: Christian D. Menefee COUNTY ATTORNEY</p> <p>By: </p> <p>Philip Berzins Assistant County Attorney C.A. File # 21GEN2417</p>

Aug 31 2021

## **EXHIBIT A**

### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS - LOWER-TIER COVERED TRANSACTIONS**

This Agreement is a covered transaction for purposes of the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension). As such, Vendor is required to confirm that none of the Vendor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

#### **INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this proposal, Vendor (referred to herein as the "prospective lower tier participant") is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AN VOLUNTARY  
EXCLUSION—LOWER TIER COVERED TRANSACTIONS

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.



## Exhibit B

### **CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Vendor, SouthEast Texas Regional Advisory Council, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Vendor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

SouthEast Texas Regional Advisory Council

Name of Contractor

Signature

Chief Executive Officer

Title

RFP or ITB No.

Darrell Pile

Printed Name

08/28/2021

Date