



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

January 6, 2022

**SUPPLEMENTAL**

Commissioners Court  
Harris County, Texas

**RE: Job No. 170026**

Members of Commissioners Court:

Please approve the attached Order authorizing the County Judge to execute the attached Agreement for the following:

**Description:** Job Order Contracting for Small and/or Large Roofing Projects for Harris County

**Vendor:** Royal American Services, Inc

**Term:** January 10, 2023 through April 30, 2023

**Amount:** \$750,000

**Reviewed by:**   X   Facilities & Property Maintenance   X   Harris County Purchasing

A purchase order will be issued upon Commissioners Court approval.

Sincerely,

*DeWight Dopslauf*

DeWight Dopslauf  
Purchasing Agent

MAM

Attachments

cc: Facilities & Property Maintenance  
Vendor

**FOR INCLUSION ON COMMISSIONERS COURT AGENDA JANUARY 10, 2023**



## **AGREEMENT BETWEEN HARRIS COUNTY AND ROYAL AMERICAN SERVICES, INC.**

This Agreement is made and entered into by and between Harris County (the "County"), a body corporate and politic under the laws of the State of Texas, by and through the Public Infrastructure Department ("PID"), and Royal American Services, Inc. ("Contractor"), doing business under the laws of the State of Texas. The County and Contractor are referred to herein collectively as the "Parties" and individually as a "Party."

### ***Recitals***

On or about September 27, 2022, the County entered into an agreement (the "Agreement") with Royal American Services, Inc. for small and large roofing projects ("Services").

The Agreement was renewed according to the terms of the Agreement and expired September 26, 2022.

The County continued to pay for Services performed by Contractor from September 30, 2022, until November 3, 2022, for a total amount of One Million Six Hundred Twenty-Seven Thousand Sixty-Nine and 67/100 Dollars (\$1,627,069.067).

The Parties agree that there are no outstanding invoices for the period between November 3, 2022 and January 10, 2023.

The Parties now desire to enter into a new Master Agreement for small and large roofing projects.

### **1) GENERAL SCOPE OF AGREEMENT**

- A) Contractor agrees to provide job order contracting for small and large roofing projects, as detailed in the Request for Proposal ("RFP") Job No. 17/0026 (the "Services"), attached hereto as Exhibit A and incorporated herein by reference.
- B) Contractor shall perform the Services utilizing the then current Harris County Construction Task Catalog® upon notification from the County of a project and schedule. Contractor shall not make any adjustments or changes to the Harris County Construction Task Catalog® other than the Contractor's approved Adjustment Factors.
- C) Contractor shall supply the County with all document deliverables i.e. as-built drawings, in a form acceptable to the County.
- D) The Contractor shall follow all federal, state, and local laws, rules, codes, ordinances, and regulations applicable to the Contractor's Services. Contractor shall ensure all subcontractors it hires shall comply with same.



- E) 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.
- F) 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.
- G) Contractor shall verify that each Subcontractor it retains to perform Services pursuant to this Agreement are in compliance with Sections E and F above.
- H) The Director of PID (the "Director") or his designated representative shall act for the County in connection with the performance of the County's obligations in this Agreement. Contractor shall act only upon instructions from that specified individual.
- I) Unless otherwise stated in this Agreement, words which have well-known technical or industry meanings are used in accordance with such recognized meaning.
- J) Contractor's designated representative shall be authorized to act on the Contractor's behalf with respect to the performance of Services.

## **2) JOB ORDERS**

The County shall order Services and provide all necessary documentation and information necessary for the Contractor to prepare a detailed Scope of Work and Job Order Price Proposals. The process for Job Orders shall follow the process detailed in the RFP.

## **3) 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. 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.

#### **4) TIME FOR PERFORMANCE**

- A) The Agreement shall begin upon Commissioners Court approval and remain in full force and effect from the date of execution and shall expire April 30, 2023.



- B) Contractor understands and agrees that the Services covered under this Agreement shall not proceed until the Contractor receives an approved Job Order and the issuance of a Purchase Order which shall certify the availability of funds for the particular project.

## **5) CONTRACTOR'S COMPENSATION**

- A) Subject to the Limit of Appropriation and any required approvals from the Director as set forth in this Agreement, the County agrees to pay the Contractor according to the rates found in the Contractor's Best and Final Offer ("BAFO"), attached hereto as Exhibit B and incorporated herein by reference.
- 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.
- D) The County reserves the right to award multiple contracts for the performance of the Services covered by this Agreement. The assignment of Contractor to perform Services for any particular project is at the sole discretion of the County.
- E) Contractor acknowledges and has been advised that this Agreement may only represent a portion of the Services to be provided and that the County has entered into or may enter into other agreements to be funded with the funds appropriated for these Services. Under no circumstances or interpretation of this Agreement shall the County guarantee any particular volume of work, revenue, or profit to Contractor. Contractor understands and agrees that the County's determination as to distribution of these funds shall be final. Contractor understands and agrees that when all the funds in the Limit of Appropriation in Article 9 are expended or, if County's determination is to reduce the amount of funds available from the amount in Article 9, Contractor's sole and exclusive remedy shall be to terminate this Agreement. This Article shall survive the expiration or termination of this Agreement.

## **6) TERMS OF PAYMENT**

- A) Contractor shall submit a monthly invoice to the County. Each invoice shall be in a form acceptable to the Harris County Auditor and shall include such detail of the Services as may be requested by the County Auditor for verification purposes. A copy of the written authorization from the County approving the performance of the Services and the cost shall be attached to the applicable invoice.



- B) The invoices shall, at a minimum, include a description of the Services, the day(s) and the time(s) that the Services were performed, the address where the Services were performed, and the total amount billed for the Services. After receipt of an invoice, the County shall review and approve it with such modifications as may be deemed appropriate, and then forward, 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.
- C) Contractor understands and agrees that the funding of this Agreement contained in the County's annual fiscal budget is subject to approval of the Commissioners' Court of Harris County, Texas (the "Court"). Contractor further understands and agrees that if for any reason the Court withdraws funding, reduces funding, or elects not to include sufficient funds in any of the County's annual fiscal budgets, or fails to approve a budget for the County that includes sufficient funds for the continuance, renewal, or extension of this Agreement, then this Agreement shall terminate and the County shall have no further obligation to Contractor other than payment for Services performed by the Contractor up to and including the date of termination. Contractor agrees that it will not be entitled to any liquidated or incidental damages, late fees, penalties, or finance charges. Failure to certify funds or to certify sufficient funding for any reason shall not be considered a breach of this Agreement.

## 7) TERMINATION

- A) The County may terminate this Agreement at any time by notice in writing to the Contractor.
- B) Upon receipt of such notice, Contractor shall discontinue all Services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- C) Within thirty (30) days after receipt of notice of termination, Contractor agrees to submit an invoice, showing in detail the Services performed under this Agreement up to and including the date of termination.
- D) The County agrees to pay Contractor that proportion of the prescribed charges for the Services actually performed and deliverables actually received under this Agreement bear to the total Services or deliverables called for under this Agreement, less such payments on account of charges as have previously been made.
- E) *Force Majeure*. In the event that either Party is unable to perform any of 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.

## 8) NOTICE

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

To Contractor:        Royal American Services, Inc.  
                              5909 West Loop South, Suite 155  
                              Bellaire, Texas 77401  
                              Attn: Steve Goldman

To the County:        Harris County Engineering  
                              Construction Programs Division  
                              1310 Prairie, 11<sup>th</sup> Floor  
                              Houston, TX 77002  
                              Attn: Rosanette Bosco

Copy To:                Harris County Purchasing Agent  
                              1001 Preston, Suite 670  
                              Houston, Texas 77002  
                              Attn: Melissa McCord

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

## 9) LIMIT OF APPROPRIATION

- A) Contractor does understand and agree, said understanding and agreement being of the absolute essence of this Agreement, that this contract shall only be activated upon necessity as determined by the County in its sole discretion. Upon activation by the County, the County shall appropriate and certify funds up to Seven Hundred Fifty Thousand and No/Dollars (\$750,000.00) and will issue a Purchase Order as to the amount and the availability of the funds for each particular project. 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 County shall become liable to pay to Contractor hereunder, shall not under any



conditions, circumstances, or interpretations thereof exceed the sum of Seven Hundred Fifty Thousand and No/Dollars (\$750,000.00). At all times the County reserves the right to reduce the Limit of Appropriation in order to contract with other contractors to perform the Services specified under this Agreement.

- C) Contractor understands and agrees that multiple Contractors have been awarded and that projects shall be distributed among the awarded Contractors as determined by the County in its sole discretion. The Harris County Auditor will certify and appropriate funds for use by the Contractor through the issuance of a Purchase Order by the Harris County Purchasing Agent. The County may, in its sole discretion, increase or decrease the funds allotted to Contractor in its Purchase Order by amending the Contractor's Purchase Order. Under no circumstances or interpretation of this Agreement shall the County guarantee any particular volume of work, revenue, or profit to the Contractor. Contractor understands and agrees that the County's determination as to distribution of these funds shall be final. Funds shall be certified available for each individual project after approval and acceptance by the County of the Job Order Price Proposal. Approval and acceptance of the proposal shall be evidenced by the issuance of a purchase order by the Harris County Purchasing Agent, in the total amount for the individual project.
- D) It is expressly understood and agreed that County has available the total maximum sum of funds, as stated above, and certified available by the County Auditor for the purpose of satisfying the County's obligations under the terms and provisions of this Agreement. 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.
- E) If the Services and charges to be provided for will equal or exceed the amount certified available, Contractor will notify the County immediately. If the amount certified is depleted prior to the end of the term of this Agreement, Contractor may terminate all Services hereunder upon the total depletion of the certified funds unless the County certifies additional funds, as evidenced by a written amendment to this Agreement, in which event Contractor shall continue to provide the Services herein specified to the extent funds are available.
- F) 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.
- G) Indemnification and Release. By executing this Release in order to receive the benefit of the mutual agreement reached, Contractor is waiving and releasing the County, its Commissioners, officers, employees, agents, and assigns from any and all claims, damages, actions, suits in equity, or causes of action, of whatsoever nature, whether now or not presently known to the Parties because of any matter or thing done or omitted concerning or relating to the issues surrounding the Invoices, which includes any and all lawsuits, whether pending or in the future, against the County, its Commissioners, officers, employees, agents, or assigns.



**10) SUCCESSORS AND ASSIGNS**

- A) The County and Contractor bind themselves and their successors, executors, administrators, and assigns to the other Party of this Agreement and to the successors, executors, administrators, and assigns of such other Party, in respect to all covenants of this Agreement.
- B) Neither the County nor Contractor shall assign, sublet, or transfer its or his interest in this Agreement without written consent of the other.

**11) PUBLIC CONTACT**

- A) Contact with the news media, citizens of Harris County, or governmental agencies shall be the responsibility of the County.
- B) 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) 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 warrants and represents that it is not in breach of any other contract, obligation or covenant that would affect Contractor's ability to perform hereunder and, as a result of entering into this Agreement, will not breach any such contract, obligation, or covenant.
- E) 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.

- F) 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.
- G) 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 subcontract with 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.
- H) 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."
- I) No Federal Exclusion: 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.

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

**13) 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.

**14) INDEMNIFICATION**

**CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM AND AGAINST ALL CLAIMS AND LIABILITY DUE TO THE ACTIVITIES OF CONTRACTOR, ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL, PERFORMED UNDER THIS CONTRACT 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 BY ANY PERSON EMPLOYED BY CONTRACTOR, OR CONTRACTOR'S AGENT, SUBCONTRACTOR, CONSULTANT UNDER CONTRACT, 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, ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL.**

**CONTRACTOR SHALL ALSO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM ALL DAMAGES, EXPENSES, SUITS, ACTIONS AND CLAIMS OF EVERY KIND AND CHARACTER WHATSOEVER WHICH THE COUNTY MAY SUFFER DIRECTLY DUE TO ANY BANKRUPTCY, STATE OR FEDERAL TAX LEVIES OR LIENS, OR OTHER SIMILAR LEGAL PROCEEDINGS AFFECTING THE CONTRACTOR, IN WHICH THE COUNTY MAY BECOME IN ANY WAY INVOLVED, WHETHER RELATED TO THE AGREEMENT AND/OR CONTRACTOR'S PERFORMANCE OR NON-PERFORMANCE UNDER THIS AGREEMENT.**

**CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM ANY AND ALL THIRD PARTY CLAIMS, DAMAGES, LIABILITIES AND EXPENSES (INCLUDING, WITHOUT LIMITATION ATTORNEYS' FEES) FOR INJURY TO OR DEATH OF ANY PERSON OR FOR DAMAGE TO OR DESTRUCTION OF ANY THIRD PARTY PROPERTY RESULTING DIRECTLY FROM ANY AND ALL ACTS OR OMISSIONS OF CONTRACTOR AND ANY SUBCONTRACTOR OR ANYONE EMPLOYED BY OR AFFILIATED WITH ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, PROVIDED THAT, FOR PURPOSES OF THIS PARAGRAPH, THE TERM "THIRD PARTY" SHALL INCLUDE CONTRACTOR'S OFFICERS, AGENTS, SUBCONTRACTORS, AND EMPLOYEES.**

**IF A RESTRAINING ORDER OR TEMPORARY INJUNCTION IS GRANTED DUE TO ANY ACT, ERROR, OR OMISSION COMMITTED BY CONTRACTOR OR BY ANY PERSON EMPLOYED BY CONTRACTOR, OR CONTRACTOR'S AGENT, SUBCONTRACTOR, CONSULTANT UNDER CONTRACT, 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.**

**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.**

**THE REQUIREMENTS OF THIS ARTICLE EXIST INDEPENDENTLY OF ANY PROVISIONS, PROTECTIONS, OR REQUIREMENTS OF INSURANCE IN ARTICLE 17.**

**15) 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.

**16) AUTHORITY OF PID'S DIRECTOR**

- A) The Director shall decide any and all questions which may arise as to the interpretation of this Agreement, and all questions as to the acceptable fulfillment of this Agreement by the Contractor.
- B) The Director shall act as referee in all questions arising related to the rights and responsibilities of the various contractors and subcontractors performing Services, and that the decisions of the Director in such shall be final and binding alike on both Parties.
- C) However, nothing contained in this article shall be construed to authorize the Director to alter, vary, or amend any of the terms or provisions of this Agreement.

**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; Property Damage Combined Three Hundred Thousand and No/Dollars (\$300,000.00); Products-Completed Operations Aggregate Limit Two Million Dollars (\$2,000,000.00) Per Job; Aggregate One Million Dollars (\$1,000,000.00) Personal and Advertising Injury Limit.  
  
The District shall be named as an “additional insured” on the commercial general liability policy and any separate policies covering the requirements in this Article 17(B)(ii).
  - iii) Workers’ Compensation (with Waiver of subrogation to the District) Employer’s Liability, including all states, U.S. Longshoremen, Harbor Workers and other endorsements, if applicable to the Project, and in accordance with state law.
  - iv) 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 District shall be named as an “additional insured” on the automobile policy.
- C) Proof of current insurance with proof of the County designated as an “additional insured” must be returned attached to the signed Agreement under Exhibit G Proof of Insurance, attached hereto and incorporated herein by reference.
- D) TWCC RULE 110.110 WORKERS’ COMPENSATION INSURANCE COVERAGE

If this Agreement is for a building or construction contract, all of the provisions of this rule as shown below apply. Since this is a mandatory requirement, cost increases should not be experienced because of the need to comply with the Texas Workers’ Compensation Law. For additional information contact the Texas Workers’ Compensation Commission, Southfield Building, 400 S. IH-35, Austin, Texas 78704-7491, (512) 440-3618.



- i) Definitions:
  - a) Certificate of coverage ("Certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement, TWCC-81, TWCC-82, TWCC-83, or TWCC-84 showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
  - b) Duration of the project - Includes the time from the beginning of the work on the project until Contractor's/person's work on the project has been completed and accepted by the County.
  - c) Persons providing services on the project ("subcontractor" in TEXAS LABOR CODE §406.096) - Includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- ii) Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of TEXAS LABOR CODE, §401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.
- iii) Contractor must provide a certificate of coverage to the County prior to being awarded the contract.
- iv) If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the County showing that coverage has been extended.
- v) The Contractor shall obtain from each person providing services on a project, and provide to the County:
  - a) A certificate of coverage, prior to that person beginning work on the project, so the County will have on file certificates of coverage

showing coverage for all persons providing services on the project;  
and

- b) No later than seven (7) days after receipt by Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- vi) The Contractor shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
- vii) The Contractor shall notify the County in writing by certified mail or personal delivery, within ten (10) days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- viii) The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- ix) The Contractor shall contractually require each person with whom it contracts to provide services on a project to:
  - a) Provide coverage, based on reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of TEXAS LABOR CODE, §401.011(44) for all its employees providing services on the project, for the duration of the project;
  - b) Provide to Contractor, prior to that person beginning work on the project a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
  - c) Provide Contractor, prior to the end of coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - d) Obtain from each other person with whom it contracts, and provide to Contractor:
    - A certificate of coverage, prior to the other person beginning work on the project, and
    - A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;



- e) Retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;
- f) Notify the government entity in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- g) Contractually require each person with whom it contracts, to perform as required by paragraphs (i) - (vii), with the certificates of coverage to be provided to the person for whom they are providing services.
- x) By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the County that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- xi) The Contractor's failure to comply with any of these provisions is a breach of contract by Contractor which entitles the County to declare the contract void if Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the County.

## **18) PERFORMANCE AND PAYMENT BONDS**

Contractor shall execute and deliver to the County a Performance Bond and Payment Bond in the amount of the Limit of Appropriation using the forms attached hereto as Exhibit C and incorporated herein by reference. If Contractor fails to furnish the required bonds within ten (10) days after execution of the Agreement, County may terminate Agreement at no further cost to County.

## **19) PREVAILING WAGE**

- A) In accordance with Section 2258 of the Texas Government Code, Contractor and any Subcontractor hired by Contractor for the construction of any Project, shall not pay less than the rates set forth in the Schedule of Prevailing Wages attached hereto as Exhibit D and incorporated herein by reference. Contractor warrants that it and its Subcontractors shall comply with all requirements and worker ratios per the applicable Schedule of Prevailing Wages and Texas state law.
- B) Contractor shall submit certified payroll of Contractor and all Subcontractors on a weekly basis. At County's request, Contractor shall



make available and shall require its Subcontractors to make available, copies of cancelled checks and check stubs for comparisons by the County or its agents.

- C) County reserves the right for its agents to visit the Project Site and to interview Contractor, its Subcontractors and employees of each on any date or time, as often as desired during the construction period, without prior notification.
- D) County will ascertain if proper wage rates are being paid to the employees as required by the Contract Documents. In the event of a discrepancy between the Services performed and the wages paid, County will document same and notify Contractor. All initial determinations of the classification of workers or the appropriate prevailing wage shall be made by the Harris County Contract Compliance Officer. His determinations shall be binding.
- E) If, for any length of time and as determined by the Harris County Contract Compliance Officer, discrepancies appear between the certified payrolls and the actual wage paid, County shall require check stubs to be attached to each weekly certified payroll.
- F) Pursuant to TEX. GOV'T CODE ANN. §2258.051, the County reserves the right to withhold any monies due Contractor until such discrepancy is resolved and the necessary adjustment made. Contractor shall also pay a penalty in accordance with TEX. GOV'T CODE ANN. § 2258.023(b), of Sixty and No/Dollars (\$60.00) per day per person per incident that such person is underpaid. Contractor shall impose these same obligations upon its Subcontractors. Contractor understands that with monthly certified payrolls, Contractor is responsible for any and all penalties that shall accrue during the month, regardless of the fact that any error could not be discovered by the Contract Compliance Officer until the following certified payroll.

## **20) 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.



**21) 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.

**22) CONTRACT CONSTRUCTION**

- A) The headings in this Agreement are for convenience or reference only and shall not control or affect the meaning or construction of this Agreement.
- B) When terms are used in the singular or plural, the meaning shall apply to both.
- C) When either the male or female gender is used, the meaning shall apply to both.

**23) 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.

**24) 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.

**25) 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.



**26) 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.

**27) 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.

**28) 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.

**29) 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.

**30) EFFECTIVE DATE**

The Effective Date of this Agreement will be the later date the Agreement is signed by all the Parties.

**31) EXECUTION**

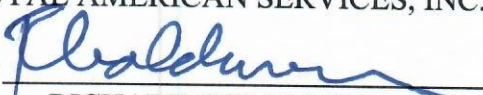
Multiple Counterparts: The Agreement may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party represents and warrants that the undersigned is a duly authorized representative with the power to execute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

*[Signature page to follow]*



ROYAL AMERICAN SERVICES, INC.

By



Name: RICHARD GOLDMAN

Title: VICE PRESIDENT

Date: JANUARY 5, 2023

HARRIS COUNTY

By:

LINA HIDALGO  
COUNTY JUDGE

APPROVED AS TO FORM:  
CHRISTIAN D. MENESEE  
COUNTY ATTORNEY

By:

Sarah Hodges  
Sarah Hodges  
Assistant County Attorney  
C.A. File No.: 23GEN0038



## ORDER OF COMMISSIONERS COURT

### Authorizing execution of Agreement

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on \_\_\_\_\_, 2023 with all members present except \_\_\_\_\_.

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

### ORDER AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN HARRIS COUNTY AND ROYAL AMERICAN SERVICES, INC.

Commissioner \_\_\_\_\_ introduced an order and made a motion that the same be adopted. Commissioner \_\_\_\_\_ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

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

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

**IT IS ORDERED** that County Judge Lina Hidalgo be, and she is hereby, authorized to execute for and on behalf of Harris County, an Agreement between Harris County and Royal American Services, Inc. for large and small roofing projects. The Agreement is incorporated herein by reference for all purposes as though fully set forth word for word.

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