



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

May 01, 2023

Commissioners Court  
Harris County, Texas

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

Members of Commissioners Court:

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

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

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

**Term:** May 16, 2023 - May 15, 2024

**Amount:** \$151,800

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

A purchase order will be issued upon Commissioners Court approval.

Sincerely,

DeWight Dopslauf  
Purchasing Agent

JB  
Attachment(s)  
cc: Vendor(s)

**FOR INCLUSION ON COMMISSIONERS COURT AGENDA MAY 16, 2023**



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

THE STATE OF TEXAS     §  
                                      §  
COUNTY OF HARRIS     §

This Professional Services Agreement (“Agreement”) under Chapter 2254 of the Texas Government Code is made and entered into by and between Harris County (the “County”), a body corporate and politic under the laws of the State of Texas, acting by and through the Harris County Institute of Forensic Sciences (“Department”), and Merrill Hines dba Final Advocate Forensics, PLLC (“Contractor”). The County and Contractor are referred to herein collectively as the “Parties” and individually as a “Party.”

**WHEREAS**, the Department includes the Harris County Medical Examiner’s Office, which is responsible for conducting death investigations under Tex. Code of Criminal Procedure, Art. 49.25;

**WHEREAS**, the Department wishes to retain Contractor to perform medical examiner services and Contractor has represented that it is qualified to perform those services;

**WHEREAS**, this Agreement is entered into under the American Rescue Plan Act 2021 (Pub. Law 117-2), herein referred to as the “Act” or “ARPA”;

**WHEREAS**, Pursuant to § 603(c)(1)(a) of the Act, a grantee of Coronavirus State and Local Fiscal Recovery Funds may respond to the public health emergency with respect to the Coronavirus Disease 2019 (“COVID–19”) or its negative economic impacts, which, pursuant to the Final Rule adopted by the Treasury Department, includes expenditures for response, mitigation, and prevention; and

**WHEREAS**, The County has determined that the relief services provided for in this Agreement serve a public purpose and are a necessary expenditure incurred due to the COVID-19 public health emergency, and it wishes to amend the Agreement to incorporate necessary terms and conditions to allow use of ARPA funds to pay for the services performed by the Contractor.

**1) GENERAL SCOPE OF SERVICES**

- A) Dr. Merrill Hines shall personally provide the services described herein and none of the work shall be performed by any other employee, servant, agent, delegate, or subcontractor on Contractor’s behalf. Contractor shall provide medical examiner services, including medicolegal exams of decedents requiring autopsies, as well as comprehensive written autopsy reports (to include histology examination as warranted) within 90 days of autopsy, as requested by the Department on an as needed basis.

- B) Contractor warrants and represents that Dr. Hines is a physician, licensed to practice medicine in Texas, and is a forensic pathology board-certified pathologist in good standing and is qualified to provide the requested services.
- C) Contractor warrants and represents that it does not owe any debts to Harris County, including, but not limited to delinquent taxes, court judgments, tickets, tolls, fees, or fines. Taxes are deemed delinquent on the date certain as specified by the Harris County Tax Office. For the purposes of this Agreement, a court judgment is not required for delinquent taxes to be considered a debt.
- D) Unless otherwise stated in this Agreement, words which have well-known technical or industry meanings are used in accordance with such recognized meaning.
- E) Contractor may not make, in whole or in part, any assignment of this Agreement or of any duty of obligation of performance of the Services hereunder. It is expressly understood and agreed that all Services must be performed personally by Dr. Hines and such services shall not be assigned to or performed by any other person.
- F) Contractor warrants and represents that it will deliver the Services in compliance with all applicable federal, state, and local laws, ordinances, rules, and regulations relating to the Services.
- G) During the term of this Agreement, Contractor must not represent or undertake to perform any services to any other party with respect to any matters that would present a conflict of interest between the County and that other party. In the event that a conflict of interest arises, as determined solely by the County, this Agreement will terminate automatically and Contractor will not be entitled to payment for services performed after the date of such termination.

## **2) INDEPENDENT PARTIES**

- A) The Services performed by the Contractor under this Agreement are performed by Contractor as an independent contractor and in addition to Contractor's regular business. Contractor shall remain an independent contractor and shall not be considered an employee, agent, borrowed servant, or partner of the County.
- B) The County shall look to Contractor for results only. Contractor shall not be obligated to maintain any set, regular hours, nor perform any set number of hours of Service in fulfilling Contractor's obligations. Contractor may start and cease work hereunder at will as long as authorized services are performed satisfactorily and in a timely manner.
- C) Contractor shall not have the legal status of an employee of the County and shall have no right in or claim to any of the County's employee benefits or group insurance plans or programs. Contractor acknowledges Contractor's independent contractor's status and Contractor's sole responsibility with respect to payment of any and all taxes or other assessments which may be payable as a result of the fees paid under this

Agreement. The County shall not provide to the Contractor Social Security, unemployment compensation, disability insurance, workers' compensation, medical malpractice, or similar coverage, or any other statutory benefit. The County shall not withhold from Contractor's compensation any federal, state or local taxes except as shall be required to be withheld pursuant to any applicable law or regulation.

**D) IN THE EVENT THAT ANY STATE OR FEDERAL AGENCY OR COURT OF COMPETENT JURISDICTION DETERMINES THAT CONTRACTOR IS NOT AN INDEPENDENT CONTRACTOR, CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS THE COUNTY FOR ANY AND ALL DAMAGES, PENALTIES, ASSESSMENTS, TAXES, AND EXPENSES THAT MAY BE INCURRED BY COUNTY AS A RESULT OF THIS DETERMINATION.**

E) Neither Party shall have the authority to enter into contracts or agreements on behalf of the other Party.

### **3) TERM**

This Agreement begins upon final execution by the Parties and shall remain in full force and effect for one year, unless earlier terminated in accordance with the terms herein.

### **4) CONTRACTOR'S COMPENSATION**

A) County agrees to pay Contractor at a rate of \$1,100 per autopsy performed, including the resulting report.

B) The above amounts are intended to compensate Contractor for all time and expenses. It is expressly understood that Contractor is neither authorized to seek reimbursement nor is the County obligated to pay for postage, long distance telephone calls, parking fees, travel, mileage, lodging, or other costs or expenses (similar or dissimilar).

### **5) TERMS OF PAYMENT**

A) Subject at all times to the Limit of Appropriation and any required approvals from the County as set forth in this Agreement, the County agrees to pay the Contractor according to the rates found in Section 4 of this Agreement. County shall pay 90% of the amount due for each autopsy upon completion of the autopsy, and shall pay the other 10% upon completion of the autopsy report.

B) In order to receive payment, Contractor shall submit to the designated Department representative on the last day of each month a statement which details the Services provided. The statement should, at a minimum, identify who provided the Services, include a description of the Services and the dates and times for performance of Services. The Department, at its discretion and as reasonable, may request more

information and paperwork to be provided in order to be acceptable by the County Auditor. Upon approval by the Department, the statement shall be forwarded to the County Auditor. The County shall pay each invoice as approved by the County Auditor in accordance with the laws of the State of Texas.

**6) LIMIT OF APPROPRIATION**

- A) Contractor understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to for the Services performed under this Agreement, and the total maximum sum that the County shall become liable to pay to Contractor under this Agreement, shall not under any conditions, circumstances, or interpretations thereof exceed the sum of One Hundred Fifty-One Thousand Eight Hundred and No/Dollars (\$151,800.00) (the "Contract Price"). 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. 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 hereunder for the Term of the Agreement and the total maximum sum that the County shall become liable to pay to Contractor hereunder shall not under any conditions, circumstances, or interpretations thereof exceed that sum. When all the funds so certified under this Agreement are expended, unless additional funds are certified available as evidenced by a written amendment to the Agreement, Contractor's sole remedy will be to terminate this Agreement in accordance with Article 8) to the extent permitted under Article 8).
- B) Contractor understands and agrees that the laws governing the letting of contracts for the County require the approval of the Harris County Auditor and its certification that funds are, or will be, available for the payment of the obligations created under the Agreement before such contracts become effective. Therefore, Contractor shall not proceed with any Services until such time that it receives a Purchase Order issued by the Harris County Purchasing Agent. Any Services performed by Contractor prior to receipt of a Purchase Order are at Contractor's own expense.
- C) Contractor does understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to hereunder, and the total maximum sum that the Contractor shall become liable to pay to Contractor hereunder, shall not under any conditions, circumstances, or interpretations thereof exceed the sum certified by the Purchase Order. Notwithstanding anything to the contrary, or that may be construed to the contrary, the County's liability under the terms and provisions of this Agreement is limited to this sum. When all the funds so certified are expended, Contractor's sole and exclusive remedy shall be to terminate this Agreement. If the Services and charges to be provided for will equal or exceed the amount certified available, Contractor shall notify the County immediately.

**7) TEXAS PUBLIC INFORMATION ACT**

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

**8) TERMINATION**

- A) Termination for Convenience. The County or the Contractor may terminate this Agreement at any time by providing thirty (30) days' notice in writing to the other party.

- B) Termination for Cause. If Contractor fails to materially perform pursuant to the terms of this Agreement, the County may terminate, in whole or in part, this Agreement for cause by providing notice to Contractor, and specifying the effective date thereof (“Notice of Termination for Cause”). If Contractor fails to materially perform pursuant to the terms of this Agreement, the County may choose to, but is not required to, provide written notice to Contractor specifying the default (“Notice of Default”). If County chooses to provide such Notice of Default and Contractor does not cure such default within the time required by the County, the County may terminate this Agreement for cause by providing the Notice of Termination for Cause, and specifying the effective date thereof. If the termination is for cause, Contractor shall – subject at all times to Articles 6) and 15) – receive funding distributions (properly supported by documentation requested by the County) for that portion of the work or materials provided that have been fully and adequately completed and accepted by the County as of the date the County provides the Notice of Termination for Cause. 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, which shall be liable for the full cost of the County’s corrective action, including reasonable overhead, profit and attorneys’ fees.
- C) Upon receipt of termination notice from the County, Contractor shall discontinue all Services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- D) Within thirty (30) days after receipt of notice of termination from the County, Contractor agrees to submit an invoice showing in detail the Services performed under this Agreement up to and including the date of termination.
- E) 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.
- F) *Force Majeure.* In the event that either Party is unable to perform any of their obligations under the Agreement or to enjoy any of the benefits because of natural disaster, actions or decrees of governmental bodies or communications line failure not the fault of the affected party (referred to as a “*Force Majeure Event*”), the Party who has been so affected immediately agrees to give notice to the other Party and agrees to do everything possible to resume performance. Upon receipt of such notice, the Agreement is immediately suspended. If the period of nonperformance exceeds ten (10) calendar days from the receipt of notice of the *Force Majeure Event*, the Party whose ability to perform has not been so affected may terminate the Agreement immediately by giving written notice to the other Party.

- G) Copies of all completed or partially completed information, programs, inventions, software (including source code), firmware, designs, documentation or data (the "Documents") developed, created or invented under this Agreement shall be delivered to the County when this Agreement is terminated or completed.

## **9) NOTICE**

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

To Contractor:           Merrill Hines dba Final Advocate Forensics, PLLC  
933 Columbia Street  
Houston, TX 77008  
Email: drmerrillhines@gmail.com

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

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

- 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 will 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 it is fully qualified to perform the Services described in this Agreement.
- B) Contractor shall keep confidential the contents of all discussions with County officials. It shall keep confidential the contents of all County records and all other information



obtained during Contractor's performance of the Services under this Agreement. Contractor shall not release any confidential information unless the County, in writing, authorizes the release of specific information to a third parties.

- C) Contractor shall not access any information it is not authorized to receive, nor shall it copy, recreate, or use any proprietary information or Documents obtained in connection with this Agreement other than for the performance of this Agreement.
- D) Contractor warrants and represents that it is not in breach of any other contract, obligation or covenant that would affect Contractor's ability to perform hereunder and, as a result of entering into this Agreement, will not breach any such contract, obligation, or covenant.
- E) Conflict of Interest: Contractor warrants and represents to the County that it does not have nor shall it knowingly acquire any interest that would conflict in any manner with the performance of its obligations under this Agreement. Furthermore, Contractor warrants that no company or person, other than a bona fide employee, has been employed to solicit or secure this 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.
- F) Lobbying: Contractor shall not use County funds to directly or indirectly pay any person for influencing or attempting to influence any public employee or official in connection with the awarding of any contract or the extension, continuation, renewal, amendment or modification of any contract. Pursuant to 31 U.S.C.A. § 1352 (2003), if at any time during the Agreement term funding to Contractor exceeds \$100,000.00, Contractor shall file with the County the Federal Standard Form LLL titled "Disclosure Form to Report Lobbying."
- G) No Federal Exclusion: Contractor warrants and represents that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any Federal programs, including but not limited to the following: Department of Health and Human Services (DHHS), Office of Inspector General (OIG) - List of Excluded Individuals & Entities (LEIE); U.S. General Services Administration (GSA) – Excluded Parties List System (EPLS); All States (50) Health & Human Services Commission Medicaid OIG Sanction List; Government Terrorist Watch List (OFAC / Patriot Act); Department of Commerce, Bureau of Industry and Security, Denied Persons List; and Department of Homeland Security, Immigration and Customs Enforcement (ICE) Most Wanted. Contractor must immediately notify the County of any such exclusion or suspension. Contractor warrants and represents that it is in good standing with all State and Federal agencies that have a contracting or regulatory relationship with the County. Contractor warrants and represents that no person who has an ownership or controlling interest in

Contractor's business or who is an agent or managing employee of Contractor has been convicted of a criminal offense related to involvement in any federal program.

- H) County and its designee shall have the right to conduct examinations, studies and audits of the services, payments, and efficiencies provided under this Agreement and County may make such examinations, studies, and audits at any time whether before or after payment. Contractor shall cooperate with such examinations, studies, and audits and provide County with such 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.
- I) Prior to execution of the Agreement, Contractor shall, as an update, complete Form 1295 in accordance with Tex. Gov't Code Ann. § 2252.908 concerning "Interested Parties," Contractor warrants and represents that all the information on the form is complete and accurate.
- J) 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.
- K) Anti-Boycott: In accordance with Tex. Gov't Code Ann. § 2270.002, Contractor warrants and represents that it does not boycott Israel and agrees that it will not boycott Israel during the term of this contract.
- 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). 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. Contractor shall insert the substance of this clause ("Whistleblower Protection Act") in all subcontracts providing services under this Agreement.
- M) Compliance with Federal Requirements. Parties acknowledge that the Contractor meets the definition of "contractor" found in 2 C.F.R. 200.331 and has been provided the required Coronavirus State and Local Fiscal Recovery Fund Award Terms and Conditions as contained in Attachment 2, attached hereto and incorporated herein by reference to the extent applicable to Contractor. This Agreement requires the Parties' compliance with applicable provisions of Title 2 C.F.R. part 200. Contractor agrees to comply with all applicable Federal law, regulations, executive orders, Department of

Treasury policies, procedures, and directives, as well as state and local laws, regulations, and policies governing the funds provided under this Agreement. With respect to any conflict between such federal requirements and the terms of the Agreement and/or the provisions of state/local law and except as otherwise required under federal law or regulation, the federal requirement shall control. Violations of law will be referred to the proper authority in the applicable jurisdiction.

Any subcontracts entered into by Contractor in connection with this Agreement shall comply with all applicable Federal laws, regulations, executive orders, Department of Treasury policies, procedures, and directives. Subcontracts, if any, shall contain a provision making them subject to all of the provisions stipulated in this Agreement.

- N) No Obligation by Federal Government. The Federal government, Department of Treasury, and any other federal agency or pass-through entity providing financial assistance are not a party to any transaction between the recipient and its contractor. The Federal government or any other federal agency or pass-through entity providing financial assistance are not subject to any obligations or liable to any party for any matter relating to this Agreement.
- O) Program Fraud & False or Fraudulent Statements or Related Acts. Recipients, subrecipients, and contractors must comply with 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements, which shall apply to the activities and actions of recipients, subrecipients, contractors, and subcontractors pertaining to any matter resulting from a contract.
- P) Fraud, Waste, and Abuse Reporting. Contractor shall promptly report to the County through the County's Fraud, Waste, or Abuse Hotline and also notify the County in accordance with all the Notice provisions contained in this Agreement of all suspected or known instances and facts concerning fraud, waste, abuse, or criminal activity under this Agreement. The County's Fraud, Waste, or Abuse Hotline can be accessed by phone at 866-556-8181 or online at <https://secure.ethicspoint.com/domain/media/en/gui/68174/index.html>.
- Q) Energy Companies. In accordance with Tex. Gov't Code Ann. § 2274.002, Contractor's signature on this Agreement constitutes Contractor's written verification that it does not boycott energy companies and will not boycott energy companies during the term of the Agreement.
- R) Firearm and Ammunition Industries. In accordance with Tex. Gov't Code Ann. § 2274.002, unless Contractor meets an exemption under subsection (c) or section 2274.003, then, as required by subsection (b) of section 2274.002, Contractor's signature on this Agreement constitutes Contractor's written verification that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of the Agreement.

- S) Duplication of Benefits; Subrogation. Contractor shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155), as amended through P.L. 116-284 (January 1, 2021), and in accordance with section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115-254; 132 Stat. 3442), which amended section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42U.S.C. 5155). The Contractor shall carry out the activities under this agreement in compliance with the County's procedures to prevent duplication of benefits.

If the Contractor receives duplicate benefits from another source for projects related to this disaster, the Contractor must refund the benefits provided by the County to the County. The County may also recover the amount to be repaid, or any part thereof, by deductions from any ARPA funding which was to be paid to Contractor.

Under Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, any entity that has received or is entitled to receive federal disaster assistance is liable to the United States for the repayment of such assistance to the extent that such assistance duplicates benefits available for the same purpose from another source, including insurance and other federal programs.

- T) Audits, Documentation & Recordkeeping/Record Retention. Harris County, any Federal agency (including without limitation any federal Inspectors General), the Comptroller General of the United States, or any of their authorized representatives (each an "Auditor"), shall have the right of access to any facilities and to any records, documents, financial statements, papers, or other records of the Contractor in order to make audits, examinations, excerpts, and transcripts related to this Agreement. Contractor shall cooperate with such examinations, studies, and audits and provide the Auditor with such documents, including without limitation Contractor's backup and support data related to the work, materials, and billings under this Agreement. The Auditor may perform such examination, studies and audits before or after payment. The right of access also includes timely and reasonable access to the Contractor's personnel for the purpose of interview and discussion related to such documents. All payments made by County are subject to re-evaluation and refund or withholding of future payments conditioned on the results of the audit.

All recipients, subrecipients, contractors, successors, transferees, assignees, and subcontractors must acknowledge and agree to comply with applicable provisions governing access to records, accounts, documents, information, and facilities.

To the extent required by and in accordance with 2 CFR Part 200 and any applicable guidance from the Treasury Department, Contractor, recipients, subrecipients, contractors, successors, transferees, assignees, and subcontractors shall retain sufficient records, which may include, but are not limited to financial records, supporting documents, statistical records, and all other records pertinent to the Agreement. Subject to and in accordance with the requirements set forth and in

accordance with 2 CFR Part 200 and any applicable guidance from the Treasury Department, records shall be maintained by Contractor for a period of five (5) years after this Agreement has ended and the work has concluded.

Contractor shall include this provision in all subcontracts and consulting agreements executed in support of this Agreement, thereby giving any Auditor the right to perform examination, studies and audits of all subcontractor and consultants paid from funds under this Agreement.

This section shall survive termination of this Agreement.

#### **U) Monitoring & Compliance**

To the extent required and in accordance with 2 CFR 200, County shall monitor the activities of Contractor as necessary to ensure that payments made by the County ("Grantee") to Contractor are used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this Agreement; and that performance goals, set forth in this Agreement, are achieved. Monitoring of Contractor shall include:

- i)** Reviewing financial and performance reports as required by Grantee.
- ii)** Following-up and ensuring that Contractor takes timely and appropriate action on all deficiencies pertaining to this Agreement detected through audits, on-site reviews, and other means.

Depending upon County's assessment of risk posed by Contractor based upon the requirements of 2 CFR 200 and/or applicable guidance from the Treasury Department, the following monitoring tools may be used by County to ensure proper accountability and compliance with program requirements and achievement of performance goals that are set forth in this Agreement:

- i)** Providing Contractor with training and technical assistance on program-related matters; and
- ii)** Performing on-site reviews of Contractor's program operations.

#### **11) PUBLIC CONTACT**

Contact with the news media, citizens of Harris County, or governmental agencies shall be the responsibility of the County, except that the Contractor may interact with governmental agencies as necessary to fulfill the services of this Contract. Under no circumstances shall Contractor release any material or information developed in the performance of its Services without the express written permission of the County.

#### **12) 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.

**13) 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.

**14) 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.

**15) GRANT FUNDING**

- A) Contractor understands and agrees that this Agreement is contingent upon the

availability of third-party funds, including but not limited to federal funds awarded to the State or County ("Grant Funds") for the term of the Agreement. It is expressly understood and agreed that the County has no County funds available with which to pay its obligations hereunder except funds allocated and received by the County under Grant Funds awarded to the County. The County shall not be liable under any circumstances or any interpretations hereof for any costs under this Agreement until the Grant Funds are certified and available for this Agreement by the County Auditor as evidenced by the issuance of a purchase order by the Harris County Purchasing Agent. It shall be the obligation of Contractor to assure itself that sufficient funds have been allocated to pay for the Services to be provided. Should Contractor receive any Grant Funds from the County that are determined to be not subject to payment with Grant Funds, Contractor shall refund to the County any and all such amounts that have been paid by the County. Contractor understands and agrees that the payment obligations created by this Agreement are conditioned upon the availability of third-party funds and appropriated for the payment of such obligations under the Grant Funds. Contractor also understands and agrees that this Agreement is contingent upon Contractor's eligibility to receive funds under federal law, including without limitation the Act and all applicable federal statutes and regulations, and Contractor represents that it is eligible to receive funds under all applicable federal statutes and regulations.

- B)** In the event these Grant Funds are discontinued or reduced during the Agreement term, the County shall not be liable for payment of any funds above the actual Grant Funds allocated and received by the County. In the event the Grant Funds are reduced, and the Parties are unable to renegotiate the Agreement upon mutually acceptable terms, the Contractor's sole and exclusive remedy shall be to terminate this Agreement. The County's obligation to make any payments under the Agreement using Grant Funds is limited to the amount of Grant Funds actually received and is subject to all applicable federal law. Contractor agrees that, in the event that Grant Funds are discontinued or reduced, Contractor will not be entitled to any damages or remedies of any kind, including without limitation damages for work performed, 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. Contractor shall provide the products, Services and Deliverables during the term of the Agreement.
- C)** Contractor understands and agrees that the Grant Funds awarded to the County are the exclusive funding of the Agreement. In order to be eligible for payments under the Grant, Contractor agrees to comply with all of the applicable terms and requirements mandated under federal law, including without limitation under 2 CFR Part 200 (herein referred to as "Federal Grant Regulations" - also known as Uniform Guidance). To the extent the reimbursement is submitted by Contractor for an ineligible cost, Contractor further agrees to reimburse the County, within thirty (30) days after written notice with reason(s) (if any) for the denial provided by the U.S. Department of Treasury, for any Grant Funds received from the County under the Agreement for which the County is denied reimbursement under the

Grant or which are otherwise determined to be ineligible for reimbursement under the Grant.

- D) Contractor understands and agrees that it shall not proceed with any Services until it receives written authorization from the County to begin. If at any time during the course of the Agreement, Contractor knows that the funds available will not cover the cost of the Services, Contractor shall notify the County promptly.
- E) Subject at all times to the availability of Grant Funds and the County's right to withhold payment of any unallowable charges as determined by federal law, the County shall pay each undisputed invoice in accordance with Texas state law.

#### **16) OWNERSHIP OF DOCUMENTS; COPYRIGHT**

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

#### **17) AUDIT RIGHTS**

- A) Audit Rights. The Contractor shall cooperate to the fullest extent with any and all federal, state, local, or County audits related to this Agreement. The Contractor's cooperation shall include, but not be limited to access to all books, records, contracts, spreadsheets, correspondence, and documents, in whatever form, that are



applicable to this Agreement and requested by any federal, state, local, or County entity that has rights or jurisdiction over any part of this Agreement or the funds applicable to this Agreement.

- B) Record Retention. The Contractor agrees to provide all books, records, contracts, spreadsheets, correspondence, and documents applicable to this Agreement to the County at the conclusion of this contract. The County can retain all of these records according to its established retention schedule.

## **18) WAIVER OF BREACH**

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

## **19) SEVERABILITY**

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

## **20) SURVIVAL OF TERMS**

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

## **21) CONTRACT CONSTRUCTION**

- A) This Agreement shall not be construed against or in favor of any Party hereto based upon the fact that the Party did or did not 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.

## **22) SUCCESSORS AND ASSIGNS**

- A) The County and Contractor bind themselves and their successors, executors, administrators, and assigns to the other Party of this Agreement and to the successors, executors, administrators, and assigns of such other Party, in respect to all covenants of this Agreement.

- B) Neither the County nor Contractor shall assign, sublet, or transfer their interests in this Agreement without written consent of the other, which will not be unreasonably withheld.

**23) NO THIRD-PARTY BENEFICIARIES**

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

**24) EFFECTIVE DATE**

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

**25) ENTIRE AGREEMENT; MODIFICATIONS**

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

**26) EXECUTION, MULTIPLE COUNTERPARTS**

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

**[SIGNATURE PAGE FOLLOWS]**

MERRILL HINES DBA  
FINAL ADVOCATE FORENSICS, PLLC

By:   
Dr. Merrill Hines  
President

Date: 4/19/22

HARRIS COUNTY

By: \_\_\_\_\_  
LINA HIDALGO  
County Judge

Date: \_\_\_\_\_

APPROVED AS TO FORM:  
CHRISTIAN D. MENEFE  
COUNTY ATTORNEY

By: Manasi Tahiliani  
Manasi T. Tahiliani  
Assistant County Attorney  
CAO No. 23GEN0811

## Attachment 1

### Required Federal Clauses

(Follows Behind)

#### **FEDERAL REGULATIONS**

The Part 200 Uniform Requirements (2 CFR Part 200) require that non-Federal entities' contracts contain the applicable provisions described in Appendix II to Part 200 — "Contract Provisions for Non-Federal Entity Contracts Under Federal Awards,"; to the extent applicable to Contractor and this Agreement, the aforementioned provisions are included herein and incorporated by reference." Violations of law will be referred to the proper authority in the applicable jurisdiction. All Prime Contractors awarded contracts by Harris County which are federally funded, in whole or in part, are required to comply with the provisions below and incorporated herein, if applicable. Additionally, prime contractors with Harris County are required to include the provisions below and incorporated herein in any contracts executed with subcontractors performing the scope of work and shall pass these requirements on to its subcontractors and third-party contractors, as applicable. In addition to other provisions required by the relevant Federal agency, State of Texas, or Harris County, all contracts made by Harris County under the Federal award shall contain provisions covering the following, as applicable.

#### **DISABILITIES**

Contractor shall comply with all applicable federal, state and local laws and regulations which prohibit recipients of federal funding from discriminating against individuals with disabilities. Applicable laws and regulations with which Contractor shall comply shall include, but are not limited to, the following: Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) (24 CFR Parts 8-9); 24 CFR 570.614; The Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157); the Uniform Federal Accessibility Standards in Title 24, U.S.C. and associated regulations; the Architectural Barriers (AB) Rules; and the Texas Accessibility Standards (TAS).

#### **BYRD ANTI-LOBBYING AGREEMENT (2 CFR 200 APPENDIX II (J) AND 24 CFR 570.303)**

Pursuant to 31 U.S.C. § 1352, if at any time during the contract term funding to contract exceeds \$100,000.00, the Contractor shall file with the County the Federal Standard Form LLL titled "Disclosure Form to Report Lobbying" as laid out in a form available from County upon request.

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 must 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.

## **DISCRIMINATION**

The Civil Rights Act of 1964, Section 109 of the Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) (24 CFR Parts 8-9), the Americans with Disabilities Act of 1990 (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225), and the Age Discrimination Act prohibit Contractors from excluding or denying individuals benefits or participation in this project on the basis of race, color, religion, national origin, sex, disability, or age. The provisions require that no person in the United States shall on the ground of race, color, religion, national origin, sex, disability, or age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with community development funds made available pursuant to these Acts.

## **CLEAN AIR ACT and the FEDERAL WATER POLLUTION CONTROL ACT (2 CFR Appendix II to Part 200 (G))**

Contractor must comply with all provisions of the Clean Air Act (42 U.S.C. § 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act as amended.

Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

## **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (2 CFR Appendix II to Part 200 (E))**

Pursuant to 2 CFR 200 Appendix II (E), if at any time during the contract term funding to contract exceeds \$100,000 and the contract involves the employment of mechanics or laborers, the Contractor must comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations. Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

## **COPELAND "ANTI-KICKBACK" ACT (40 U.S.C. 3145)**

Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. part 3 as may be applicable, which are incorporated by reference into this contract.

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

### **COST PLUS CONTRACTING PROHIBITED (2 CFR 200.324(D))**

Cost-plus-a-percentage-of-cost (CPPC) contracts are prohibited by 2 CFR 200.324(d). The cost plus a percentage of cost and percentage of construction cost methods of contracting must never be used, including in subcontracts and third-party contracts. A cost-plus contract is one that is structured to pay the contractor or subcontractor their actual costs incurred, plus a fixed percent for profit or overhead.

A cost-plus-a-percentage-of-cost (CPPC) contract is a contract containing some element that obligates Harris County or Contractor to pay a contractor or subcontractor an amount (in the form of either profit or cost), undetermined at the time the contract was made, to be incurred in the future, and based on a percentage of future costs. The inclusion of an overall contract ceiling price does not make these forms of contracts acceptable.

This type of contract is prohibited because there is no incentive for the contractor or subcontractor to keep its incurred costs low. Instead, there is a reverse incentive for the contractor or subcontractor to continue to incur additional costs in order to continue to drive the percentage of cost up. In other words, increased spending by the contractor will yield higher profits. This prohibition applies to all work, regardless of the circumstances, and applies to subcontracts of the contractor cases where the prime contract is a cost-reimbursement type contract or subject to price redetermination.

### **DAVIS BACON AND RELATED ACTS (2 CFR 200 APPENDIX II (D))**

Pursuant to 2 CFR 200 Appendix II (D), for any prime construction contract in excess of \$2,000, Contractor must comply with the Davis Bacon, and the requirements shall be applicable to any labor or mechanic work completed in connection with this contract which fall under the Davis Bacon Act. Any Contractor awarded under this contract is required to comply with the Davis Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR part 5) and with the Copeland “Anti-Kickback” Act (18 U.S.C. 874; 40 U.S.C. 3145) as supplemented in Department of Labor regulations (29 CFR part 3). In accordance with the statute, Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

If Davis Bacon is applicable, Harris County will provide a copy of the current Davis Bacon Wage Decision with this solicitation. The decision to award a contract or subcontract shall be conditioned upon the acceptance of the wage determination. Contractor shall submit certified payroll of contractor and all subcontractors on a weekly basis in the format required by the County. 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.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii)) and the Davis Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following. The Statement of Compliance can be found on page 2 of the WH-347 form, and/or additional certifications of compliance may be required by Harris County. Any Statement of Compliance is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing the statement should have knowledge of the facts represented as true.

Harris County shall report all suspected or reported violations to the Federal awarding agency, as applicable.

#### **DEBARMENT / SUSPENSION AND VOLUNTARY EXCLUSION (2 CFR Appendix II to Part 200 (I))**

Pursuant to 2 CFR Appendix II to Part 200 (H), a Contract meeting the definition in 2 C.F.R. § 180.220 must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Additionally, no contracts shall be awarded to any Contractor that has been debarred, suspended, or otherwise excluded from or ineligible for participation in any federal programs, including but not limited to the 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.

This contract is a covered transaction for purposes of compliance with Title 2 C.F.R. parts 180 and 3000, and as such the Contractor is required to verify that none of the contractor, its principals (as defined at 2 C.F.R. § 180.995), or its affiliates (as defined at 2 C.F.R. § 180.905) are excluded (as defined at 2 C.F.R. § 180.940) or disqualified (as defined at 2 C.F.R. § 180.935). The Contractor

must comply with 2 C.F.R. part 180, subpart C and 2 C.F.R. part 3000, subpart C and shall include this requirement and similar certification in all contracts between itself and any subcontractors in connection with the services performed under this Contract.

The Contractor confirms that it is eligible or otherwise not disqualified or prohibited from participation in federal or state assistance programs under Executive Order 12549, *Debarment and Suspension*. Additionally, the Contractor 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 Work (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 Work 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. Harris County reserves the right to verify any Offeror's status and document instances of debarment, suspension, or other ineligibility.

The Contractor shall verify that all subcontractors performing work under this Contract are not debarred, disqualified, or otherwise prohibited from participation in accordance with the requirements above. The Contractor further must notify Harris County in writing immediately if Contractor or its subcontractors are not in compliance with Executive Order 12549 during the term of this contract. Contractor shall include this provision in all contracts between itself and any subcontractors in connection with the services performed under this Contract.

If it is later determined that Contractor 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 the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

Contractor 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 any contract that may arise from this offer. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **ENERGY EFFICIENCY (42 U.S.C. 6201)**

Contractor must comply with the mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201, et seq.). Contractor must include this provision in all contracts between itself and any subcontractors in connection with the services performed under this Contract.

#### **EQUAL EMPLOYMENT OPPORTUNITY (41 CFR 60-1.4(b) and 2 CFR 200 APPENDIX II (C))**

Except as otherwise provided under 41 C.F.R. Part 60, to the extent the contract meets the definition of “federally assisted construction contract” in 41 C.F.R. Part 60-1.3, Contractor must



comply with, and incorporate or cause to be incorporated into any contract for, or modification thereof, the following Equal Employment Opportunity:

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

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor 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. The contractor 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.

2. The contractor 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.
3. The contractor 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.
4. The contractor 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.
5. The contractor 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.
6. The contractor 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.

7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor 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.
8. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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. The contractor 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 a contractor 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.

The applicant 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: Provided, That if the applicant so participating 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.

The applicant 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.

The applicant 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 applicant 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 applicant 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.

Contractor must include the equal opportunity clause in each of its nonexempt subcontracts, and to require all non- exempt subcontractors to include the equal opportunity clause in each of its nonexempt subcontracts.

### **EQUAL EMPLOYMENT OPPORTUNITY FOR WORKERS WITH DISABILITIES**

During the performance of this contract, the Contractor must comply with required Equal Employment Opportunity for Workers with Disabilities provisions.

Contractor shall include the following equal opportunity clause in each of its covered Government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract):

- a. Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a). This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.
- b. Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

### **EQUAL EMPLOYMENT OPPORTUNITY FOR VEVRAA PROTECTED VETERANS (41 CFR 60-300)**

Harris County is an equal opportunity employer of protected veterans. During the performance of this contract, the Contractor must comply with required Equal Employment Opportunity for VEVRAA Protected Veterans provisions. Contractor shall include the following equal opportunity clause in each of its covered Government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract):

- a. The definitions set forth in 41 CFR 60-300.2 apply to the terms used throughout this

Clause, and they are incorporated herein by reference.

- b. The contractor shall not discriminate against any employee or applicant for employment because he or she is a disabled veteran, recently separated veteran, active duty wartime or campaign badge veteran, or Armed Forces service medal veteran (hereinafter collectively referred to as “protected veteran(s)”) in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals without discrimination based on their status as a protected veteran in all employment practices, including the following:
  - i. Recruitment, advertising, and job application procedures.
  - ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring.
  - iii. Rates of pay or any other form of compensation and changes in compensation.
  - iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists.
  - v. Leaves of absence, sick leave, or any other leave.
  - vi. Fringe benefits available by virtue of employment, whether or not administered by the contractor.
  - vii. Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training.
  - viii. Activities sponsored by the contractor including social or recreational programs.
  - ix. Any other term, condition, or privilege of employment.
- c. The contractor shall immediately list all employment openings which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, with the appropriate employment service delivery system where the opening occurs. Listing employment openings with the state workforce agency job bank or with the local employment service delivery system where the opening occurs will satisfy the requirement to list jobs with the appropriate employment service delivery system. In order to satisfy the listing requirement described herein, contractors must provide information about the job vacancy in any manner and

format permitted by the appropriate employment service delivery system which will allow that system to provide priority referral of veterans protected by VEVRAA for that job vacancy. Providing information on employment openings to a privately run job service or exchange will satisfy the contractor's listing obligation if the privately run job service or exchange provides the information to the appropriate employment service delivery system in any manner and format that the employment service delivery system permits which will allow that system to provide priority referral of protected veterans.

- d. Listing of employment openings with the appropriate employment service delivery system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicants or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.
- e. Whenever a contractor, other than a state or local governmental contractor, becomes contractually bound to the listing provisions in paragraphs 2 and 3 of this clause, it shall advise the employment service delivery system in each state where it has establishments that: (a) It is a Federal contractor, so that the employment service delivery systems are able to identify them as such; and (b) it desires priority referrals from the state of protected veterans for job openings at all locations within the state. The contractor shall also provide to the employment service delivery system the name and location of each hiring location within the state and the contact information for the contractor official responsible for hiring at each location. The "contractor official" may be a chief hiring official, a Human Resources contact, a senior management contact, or any other manager for the contractor that can verify the information set forth in the job listing and receive priority referrals from employment service delivery systems. In the event that the contractor uses any external job search organizations to assist in its hiring, the contractor shall also provide to the employment service delivery system the contact information for the job search organization(s). The disclosures required by this paragraph shall be made simultaneously with the contractor's first job listing at each employment service delivery system location after the effective date of this final rule. Should any of the information in the disclosures change since it was last reported to the employment service delivery system location, the contractor shall provide updated information simultaneously with its next job listing. As long as the contractor is contractually bound to these provisions and has so advised the employment service delivery system, there is no need to advise the employment service delivery system of subsequent contracts. The contractor may advise the employment service delivery system when it is no longer bound by this contract clause.
- f. The provisions of paragraphs 2 and 3 of this clause do not apply to the listing of employment openings which occur and are filled outside of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands,

American Samoa, the Commonwealth of the Northern Mariana Islands, Wake Island, and the Trust Territories of the Pacific Islands.

g. As used in this clause:

i. All employment openings includes all positions except executive and senior management, those positions that will be filled from within the contractor's organization, and positions lasting three days or less. This term includes full-time employment, temporary employment of more than three days' duration, and part-time employment.

ii. Executive and senior management means: (1) Any employee (a) compensated on a salary basis at a rate of not less than \$455 per week (or \$380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (b) whose primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof; (c) who customarily and regularly directs the work of two or more other employees; and (d) who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight; or (2) any employee who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.

iii. Positions that will be filled from within the contractor's organization means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of his or her own organization.

h. The contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

i. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

j. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are protected

veterans. The contractor must ensure that applicants or employees who are disabled veterans are provided the notice in a form that is accessible and understandable to the disabled veteran (e.g., providing Braille or large print versions of the notice, posting the notice for visual accessibility to persons in wheelchairs, providing the notice electronically or on computer disc, or other versions). With respect to employees who do not work at a physical location of the contractor, a contractor will satisfy its posting obligations by posting such notices in an electronic format, provided that the contractor provides computers that can access the electronic posting to such employees, or the contractor has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the contractor to notify job applicants of their rights if the contractor utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

- k. The contractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by the terms of VEVRAA, and is committed to take affirmative action to employ and advance in employment, and shall not discriminate against, protected veterans.
- l. The contractor will include the provisions of this clause in every subcontract or purchase order of \$100,000 or more, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to VEVRAA so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.
- m. The contractor must, 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 their protected veteran status.

## **FAIR LABOR STANDARDS ACT**

Contractor must comply the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) as now or hereafter amended, which regulates wage, hour and other employment practices that govern the use of funds provided and the employment of personnel under this contract. The Contractor will pay all its workers all monies earned by its workers including, but not limited to regular wages, any overtime compensation, or any additional payments pursuant to the Fair Labor Standards Act; the Texas Payday Law; the Equal Pay Act; Title VII of the Civil Rights Act of 1964, et al., as amended; or any provisions of the Texas Labor Code Ann., as amended.

## **OBLIGATION OF THE FEDERAL GOVERNMENT**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

#### **LEAD-BASED PAINT (24 CFR 570.608)**

Contractor must comply with the provisions found in 24 CFR 570.608, the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead Based Paint Hazard Reduction Act of 1992 (42 U.S.C.4851-4856, and 24 CFR Part 35, subparts A, B, J, K, and R. This provision is to be included in all subcontracts, for work in connection with this Contract, which relate to residential structures.

#### **NON-COLLUSION (The Sherman Act)**

Contractor must comply with the requirements of The Sherman Act, which prohibit collusion. Collusion occurs when two persons or representatives of an entity or organization make an agreement to deceive or mislead another. Such agreements are usually secretive and involve fraud or gaining an unfair advantage over a third party, competitors, consumers or others with whom they are negotiating. The collusion, therefore, makes the bargaining process inherently unfair. Collusion can involve promises of future benefits, price or wage fixing, kickbacks, or misrepresenting the independence of the relationship between the colluding parties.

The Sherman Act prohibits any agreement among competitors to fix prices, rig bids, or engage in other anticompetitive activity. Collusion, bid rigging, or other anticompetitive activity is considered a felony.

Contractor shall not in any way, directly or indirectly:

- a. Collude, conspire, or agree with any other person, firm, corporation, Offeror or potential Offeror to the amount of this Offer or the terms or conditions of this Offer.
- b. Pay or agree to pay any other person, firm, corporation Offeror or potential Offeror any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Offer or the Offer of any other Offeror.
- c. Assemble in coordination with any other organization in an attempt to fix the price of the work.

Contractors are expected to report any suspected fraud, collusion, or impropriety from the inception of solicitation through the end of the contract term.

#### **NON-SEGREGATED FACILITIES**

“Prohibition of Segregated Facilities”

- a. Segregated facilities means any waiting rooms, work areas, rest rooms and wash



rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

Sexual orientation has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at [www.dol.gov/ofccp/LGBT/LGBT\\_FAQs.html](http://www.dol.gov/ofccp/LGBT/LGBT_FAQs.html).

- b. The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.
- c. The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

## **PARTICIPATION BY MINORITY & WOMEN-OWNED BUSINESS ENTERPRISES (2 CFR 200.321)**

Contractor must comply with the Minority and Women-owned Business Enterprise participation requirements under 2 CFR 200.321. Contractors must take all affirmative steps necessary to subcontract with Minority and Women-owned Business Enterprises (MWBES) to assure that MWBES are used when possible. These affirmative steps shall include:

- A. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- B. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- C. 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;
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- E. 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.

The State of Texas maintains a Historically Underutilized Business Program, which identifies any business at least 51 percent owned by an Asian Pacific American, Black American, Hispanic American, Native American, American woman and/or Service Disabled Veteran, who reside in Texas and actively participate in the control, operations and management of the entity's affairs as a Historically Underutilized Business (also considered MWBE). Contractors who wish to check the status of a firm may visit <https://comptroller.texas.gov/purchasing/vendor/hub/>.

Offerors are required to facilitate Minority & Women-Owned Business Enterprise participation and must describe their MWBE Utilization Plan as part of their Offer. The MWBE Utilization Plan should include Offeror's subcontracting and hiring plans, as well as a list of the MWBE or HUB firms Offeror intends to utilize to perform the contract. Offerors are encouraged to utilize MWBEs / HUB firms as subcontractors, subconsultants, or suppliers in order to comply with the requirements and may check for firms who perform relevant work by searching <https://comptroller.texas.gov/purchasing/vendor/hub/>. Offerors it, or its subcontractors, is HUB-certified by the Texas Comptroller of Public Accounts or the local MWBE office in their jurisdiction.

Contractor must facilitate Minority & Women-Owned Business Enterprise participation and take all affirmative steps to utilize MWBEs / HUB firms as subcontractors, subconsultants, or suppliers throughout the life of the Contract. Failure to include a MWBE Utilization Plan may deem Statement of Qualifications non-responsive.

## **POTENTIAL CONFLICTS OF INTEREST**

Pursuant to 2 CFR 200.112, Contractor must comply with conflicts-of-interest requirements contained in the final rule promulgated by Treasury in connection with the Act, as well as any other conflicts-of-interest requirements imposed by federal law or any conflicts-of-interest policies adopted by relevant federal agencies, including without limitation Treasury. Contractor must also comply with disclosure requirements in accordance with Texas Local Government Code, Chapter 176. Contractor shall not use 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. By law, the Conflict of Interest Questionnaire (provided by the Texas Ethics Commission at [www.ethics.state.tx.us](http://www.ethics.state.tx.us)) must be filed with the records administrator of the local governmental entity not later than 5 p.m. on the 7th business day after the date the Contractor becomes aware of facts that require the statement to be filed.

This law requires persons desiring to do business with the County to disclose any gifts with an aggregate value in excess of \$100 given to any County Official or the County Official's family member, or employment of any County Official or the County Official's family member during the preceding twelve (12) month period. The disclosure questionnaire must be filed with the Harris County Clerk. Refer to Texas Local Government Code, Chapter 176 for the details of this law.

An outside consultant or contractor is prohibited from submitting a Statement of Qualifications for services on a Harris County project of which the consultant or contractor was a designer or other previous contributor, or was an affiliate, subsidiary, joint venturer or was in any other manner associated by ownership to any party that was a designer or other previous contributor. If such a consultant or contractor submits a prohibited Statement of Qualifications, that response shall be disqualified on the basis of conflict of interest, no matter when the conflict is discovered by Harris County.

#### **PREVAILING WAGES (2 CFR 200 APPENDIX II (D) AND TEX. GOVT. CODE 2258)**

Contractor must comply with Texas Government Code (TGC) 2258, Prevailing Wage Rates. Accordingly, Contractor must submit a certified payroll records as required, and compensate any worker employed on a public works project not less than as applicable. As noted under “Davis Bacon and Related Acts”, when required by Federal program legislation, prime construction contracts in excess of \$2,000 awarded by Harris County shall require compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, Contractor must pay wages to laborers and mechanics at a rate not less than the local prevailing wages, or Davis Bacon wages, as applicable. If both Texas prevailing wages and Davis Bacon provide rates for a particular class, Contractors must pay the greater wage rate. In addition, Contractor must pay wages not less than once a week.

In compliance with Section 2258 of the Texas Government Code, Contractor and any subcontractor hired by Contractor for the construction of any public work, shall pay not less than the rates set forth in the Schedule of Prevailing Wages attached and incorporated by reference, if applicable. In submitting a Statement of Qualifications, Contractor and its subcontractors shall comply with all requirements and worker ratios per the applicable Schedule of Prevailing Wages and Texas state law, unless federal law requires payment of greater wages. [The Parties understand and agree that this Agreement and its SOW(s), and any Purchase Orders and Change Orders, issued hereunder are not for “construction of any project” as define under the aforementioned Texas law.]

Contractor must submit certified payroll of contractor and all subcontractors on a weekly basis. At County’s request, Contractor must 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. Regardless of whether Davis Bacon or Texas Prevailing Wages apply, the 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.

Harris County will ascertain if proper wage rates are being paid to the employees as required. In the event of a discrepancy between the work performed and the wages paid, the County shall document same and notify Contractor. If, for any length of time and as determined by Harris County, discrepancies appear between the certified payrolls and the actual wage paid, the County shall require check stubs to be attached to each weekly certified payroll.

Pursuant to Texas Government Code Section 2258.051, the County reserves the right to withhold any monies due Contractor until such discrepancy is resolved and the necessary adjustment made. The Contractor shall forfeit as a penalty, in accordance with Texas Government Code Section 2258.023(b), to the County or entity who administers the subject Project receiving Federal assistance, Sixty Dollars (\$60.00) for each worker, employed for each calendar day, or a portion thereof, such worker is paid less than the said stipulated rates for any work done under this Project, by him/her or by any contractor/subcontractor under him/her.

All contractor/subcontractor shall keep, or cause to be kept, an accurate record showing the names of all workers, also the actual per diem wages paid to each of such workers. Contractor shall impose these same obligations upon its Subcontractors. Contractor understands that with weekly or 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.

## **PROCUREMENT OF RECOVERED MATERIALS (2 CFR 200.323)**

Contractor shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. In the performance of this Agreement, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- Competitively within a timeframe providing for compliance with the contract performance schedule;
- Meeting contract performance requirements; or
- At a reasonable price.

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>.

Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

## **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

Contractor must comply with 31 U.S.C. Chapter 38, *Administrative Remedies for False Claims and Statements*, which shall apply to the activities and actions of the Contractor and its

subcontractors pertaining to any matter resulting from the contract.

## **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT (2 CFR Appendix II to Part 200)**

If applicable, the following clause is included: If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

## **TRANSACTIONS WITH TERRORIST ORGANIZATIONS PROHIBITED (Texas Government Code 2252.152)**

Pursuant to Chapter 2252, Texas Government Code, Contractor shall certify that, at the time of execution of this Contract, neither the Contractor, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same (1) engages in business with Iran, Sudan, or any foreign terrorist organization as described in Chapters 806 or 807 of the Texas Government Code, or Subchapter F of Chapter 2252 of the Texas Government Code, or (2) is a company listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code.

## **VERIFICATION NOT TO BOYCOTT ISRAEL**

As required by Texas law, Contractor verifies that it does not boycott Israel and will not boycott Israel through the term of this Contract. For purposes of this verification, “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

## **VENDORS/CONTRACTORS OWING TAXES OR OTHER DEBTS**

Pursuant to Texas Local Government Code 262.0276, if, during the performance of this contract, Contractor’s taxes become delinquent or Contractor becomes otherwise indebted to Harris County, Harris County reserves the right to provide notice to the Auditor or Treasurer pursuant to Texas Local Government Code 154.045.

Whether or not a Contractor’s taxes are delinquent will be determined by an independent review of the Tax Office records. Contractors are encouraged to visit the Tax Office website at [www.hctax.net](http://www.hctax.net), set up a portfolio of their accounts and make their own initial determination of the status of their tax accounts. Contractors who believe a delinquency is reflected in error must contact the Tax Office to correct any errors or discrepancies prior to submitting their Statement of

Qualifications in order to ensure that their Qualifications will be considered. Furthermore, if, during the performance of this contract, a Contractor's taxes become delinquent or a vendor becomes otherwise indebted to Harris County, Harris County reserves the right to provide notice to the Auditor or Treasurer pursuant to Texas Local Government Code §154.045. This policy is effective for all responses due on or after November 1, 2009.

## **WHISTLEBLOWER PROTECTION ACT**

Contractor, subcontractors, and employees working on this Project shall be subject 41 U.S.C. § 4712, which requires that an employee of a contractor, subcontractor, grantee, or sub grantee or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

The Contractor shall inform its employees and subcontractors in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712. The Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts providing services for this Project.

## **DOMESTIC PREFERENCE REQUIREMENTS (2 C.F.R. § 200.322)**

- A. As appropriate and to the extent consistent with law, Contractor 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 Agreement. 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.

## **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (2 C.F.R. § 200.216)**

A. *Definitions.* As used in this clause, 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 (Interim) available upon request from the County, as used in this clause—

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 paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency 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 contract, subcontract, or other contractual instrument, 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 clause does not prohibit contractors 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:
    - i. *Are not used* as a substantial or essential component of any system; and
    - ii. *Are not used* as critical technology of any system.
  - (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. *Reporting requirement.*

- (1) In the event the contractor 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 contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
  - i. 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.
  - ii. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available



information about mitigation actions undertaken or recommended. In addition, the contractor 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*. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.”

Attachment 2

CORONAVIRUS LOCAL FISCAL RECOVERY FUND AWARD  
TERMS AND CONDITIONS

(Follows behind)

**U.S. DEPARTMENT OF THE TREASURY**  
**CORONAVIRUS STATE FISCAL RECOVERY FUND**  
**AWARD TERMS AND CONDITIONS**

**1. Use of Funds.**

- a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with sections 602(c) and 603(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
- b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

**2. Period of Performance.** The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024.

**3. Reporting.** Recipient agrees to comply with any reporting obligations established by Treasury, as it relates to this award.

**4. Maintenance of and Access to Records**

- a. Recipient shall maintain records and financial documents sufficient to evidence compliance with sections 602(c) and 603(c), Treasury's regulations implementing those sections, and guidance regarding the eligible uses of funds.
- b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
- c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

**5. Pre-award Costs.** Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

**6. Administrative Costs.** Recipient may use funds provided under this award to cover both direct and indirect costs.

**7. Cost Sharing.** Cost sharing or matching funds are not required to be provided by Recipient.

**8. Conflicts of Interest.** Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

**9. Compliance with Applicable Law and Regulations.**

- a. Recipient agrees to comply with the requirements of sections 602 and 603 of the Act, regulations adopted by Treasury pursuant to sections 602(f) and 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
  - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
  - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
  - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
  - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

- v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
  - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
  - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
  - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
  - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award, include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
  - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
  - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
  - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
  - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

**10. Remedial Actions.** In the event of Recipient's noncompliance with sections 602 and 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of sections 602(c) or 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in sections 602(e) and 603(e) of the Act.

**11. Hatch Act.** Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

**12. False Statements.** Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

**13. Publications.** Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to Harris County by the U.S. Department of the Treasury."

**14. Debts Owed the Federal Government.**

- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
- b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

#### 15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

#### 16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
  - i. A member of Congress or a representative of a committee of Congress;
  - ii. An Inspector General;
  - iii. The Government Accountability Office;
  - iv. A Treasury employee responsible for contract or grant oversight or management;
  - v. An authorized official of the Department of Justice or other law enforcement agency;
  - vi. A court or grand jury; or
  - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ORDER OF COMMISSIONERS COURT  
Authorizing Execution of Professional Services Agreement with Merrill Hines dba Final  
Advocate Forensics, PLLC For the Harris County Institute of Forensic Sciences

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

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

**ORDER AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES  
AGREEMENT WITH MERRILL HINES DBA FINAL ADVOCATE FORENSICS, PLLC  
TO PROVIDE MEDICAL EXAMINER SERVICES FOR THE HARRIS COUNTY  
INSTITUTE OF FORENSIC SCIENCES**

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

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

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

**IT IS ORDERED** that County Judge Lina Hidalgo be, and she is hereby authorized to execute, for and on behalf of Harris County, a Professional Services Agreement with Merrill Hines dba Final Advocate Forensics, PLLC to provide medical examiner services for the Harris County Institute of Forensic Sciences for an amount not to exceed One Hundred Fifty-One Thousand Eight Hundred and No/Dollars (\$151,800.00).

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