

**FIRST AMENDMENT TO THE AGREEMENT BETWEEN HARRIS COUNTY
AND HARRIS COUNTY FLOOD CONTROL DISTRICT FOR THE MERCER
ARBORETUM DETENTION BASIN DRAINAGE IMPROVEMENT PROJECT**

**THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §**

This First Amendment to the Agreement is made and entered into by and between Harris County (the “Grantee”) and Harris County Flood Control District (the “Subrecipient”). The Grantee and the Subrecipient are known individually as “Party” and collectively as “Parties.”

Recitals

On October 18, 2022, the Grantee approved an Agreement (the “Master Agreement”) with the Harris County Flood Control District for the Mercer Arboretum Detention Basin Drainage Improvement Project during the term of this Agreement. The scope of the Project is to (1) acquire acquisition of several tracts of undeveloped property totaling approximately 52.40 acres; (2) design, engineering, and construction of a stormwater detention basin adjacent to low-to-moderate income designed communities to reduce existing and future flooding along Cypress Creek, reducing the vulnerability of residential homes and the Mercer Arboretum and Botanic Gardens to future flooding events. The Project area is in Precinct One, and this is an eligible activity under the rules and regulations regarding CDBG-DR Program Grant Funds (the “Services”).

The Parties now desire to amend the Master Agreement to modify Section IV, Expenses and Payments, subsection E, Payment for Eligible Expenses.

Terms

I.

This Amendment is governed by the Master Agreement, incorporated herein by reference as if set forth word for word.

II.

Section IV, Expenses and Payments , Subsection E, Payment for Eligible Expenses is modified in the following respects:

E. Payment for Eligible Expenses

The Subrecipient understands and agrees that the Grantee shall reimburse the Subrecipient for only those costs that are eligible under applicable federal rules, regulations, cost principles, and other requirements relating to reimbursement with HUD or GLO grant funds. Should any expenditure of grant funds be found ineligible by Grantee, the Subrecipient will cause such funds to be returned to Grantee from other sources.

The Grantee may reimburse the Subrecipient for the total costs, plus a fraction of the overhead costs, of those items that serve only clients from the Grantee service areas, provided that all reimbursements shall be limited to the actual out-of-pocket expenses incurred by the Subrecipient in the performance of this Agreement, including \$1,570,000.00 of pre-award costs. No reimbursement shall be made for goods or services received by the Subrecipient as in-kind contributions from third parties for assistance to the Program. If indirect costs are charged, the Subrecipient shall develop an indirect cost allocation plan determining the appropriate Grantee share of administrative costs and shall submit such plan to the Grantee for approval.

III.

In the event of any conflict between the term and provisions of this Amendment, or any portion thereof, and the terms and provisions of any other part or portion of the Master Agreement, this Amendment shall control.

IV.

All other terms and provisions of the Master Agreement shall remain in full force and effect as originally written and subsequently amended.

V.

EXECUTION

Multiple Counterparts: This Amendment 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 Amendment.

[EXECUTION PAGE FOLLOWS]

APPROVED AS TO FORM:

**HARRIS COUNTY FLOOD CONTROL
DISTRICT**

CHRISTIAN D. MENEFEE
Harris County Attorney

By: Emily Kunst
Emily Kunst
Assistant County Attorney

By: _____
Lina Hidalgo
County Judge


Date Signed: May 3, 2023

Date Signed: _____

APPROVED AS TO FORM:

HARRIS COUNTY

CHRISTIAN D. MENEFEE
Harris County Attorney

By: 
Michael James
Senior Assistant County Attorney
CA File Number: 23GEN0985
Date Signed: May 3, 2023

By: _____
LINA HIDALGO
County Judge
Date Signed: _____

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the _____ day of _____, 2023, with the following members present, to wit:

Lina Hidalgo	County Judge
Rodney Ellis	Commissioner, Precinct No. 1
Adrian Garcia	Commissioner, Precinct No. 2
Tom S. Ramsey	Commissioner, Precinct No. 3
Lesley Briones	Commissioner, Precinct No. 4

And the following members absent, to-wit _____, constituting a quorum, when among other business, the following was transacted:

ORDER AUTHORIZING EXECUTION OF AGREEMENT BETWEEN HARRIS COUNTY AND HARRIS COUNTY FLOOD CONTROL DISTRICT FOR THE MERCER ARBORETUM DETENTION BASIN DRAINAGE IMPROVEMENT PROJECT

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

	Yes	No	Abstain
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	<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 amended order thus adopted follows:

IT IS ORDERED that the Executive Director of Harris County Community Services Department is hereby authorized to execute First Amendment to the Agreement between Harris County and Harris County and Harris County Flood Control District to modify Section IV, Expenses and Payments, Subsection E, Payment for Eligible Expenses. The Amendment is incorporated herein as though fully set forth word for word.

The Executive Director of Harris County Community Services Department or her designee is authorized to take such actions and execute such other documents as they deem necessary or convenient to carry out the purpose of this Amendment.