

Contract ID No. _____

SAMPLE PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made and entered into this _____ day of _____, 2021 by and between **The Harris Center for Mental Health and IDD, (formerly known as MHMRA of Harris County)(the "Agency" or "The HARRIS CENTER")** a Community Center and an Agency of the State of Texas, with offices at 9401 Southwest Freeway, Houston, Texas 77074, under the provisions of Chapter 534 of the Texas Health & Safety Code Ann. (Vernon 1992), as amended, (the "Agency") and _____ ("Contractor"), with offices at _____ **Houston, Texas 77_____**, for the purpose of providing specialized services currently not available to the Agency through its present staff of employees.

I. RECITALS

WHEREAS, Agency is the state designated Local Mental Health Authority or Community Center established to provide, arrange for, and coordinate mental health and mental retardation services for the residents of Harris County, Texas; and

WHEREAS, the Agency is committed to providing services that are customer friendly and consumer focused; and

WHEREAS, Contractor desires to contract with Agency to provide **Sample Services;**

WHEREAS, this Agreement sets forth the terms and conditions evidencing the agreement of the parties hereto; and

NOW THEREFORE, in consideration of the mutual covenants, rights, and obligations set forth herein, the benefits to be delivered therefrom, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

II. PERSONNEL

The Agency staff member authorized to approve billing is _____, **Director of Information and Technology**. The Agency staff member responsible for overseeing this Agreement is _____ **Director of Information and Technology**.

III. INDEPENDENT CONTRACTOR RELATIONSHIP BETWEEN THE PARTIES

INDEPENDENT CONTRACTOR. The relationship between the Agency and Contractor shall be that of an Independent Contractor. It is agreed that Contractor and Contractor's personnel will not be considered an employee, agent, partner, joint venturer, ostensible or apparent agent, servant or borrowed servant of the Agency.

Contractor understands and agrees that Agency:

- a) Will not withhold on behalf of Contractor any sums for income tax, unemployment insurance, social security, or any other withholding;
- b) Will not give to Contractor any of the benefits given to employees of Agency.

III. OBLIGATIONS OF CONTRACTOR

1. SERVICES. The _____ services to be provided by Contractor Agency wide specifying and the locations where such services shall be delivered, rendered or given by Contractor are set forth in Exhibits "A" and "A1" as attached hereto and incorporated herein.

2. QUALIFICATIONS. Contractor will comply with relevant Texas Health and Human Services Commission (HHSC) rules and community standards, certifications, accreditations, and licenses and any other professional and educational qualifications.

3. AGENCY APPROVAL OF CONTRACTOR PERSONNEL. Contractor agrees not to subcontract any services until approval of such subcontractor is obtained from the Agency. Any subcontractor or employees of Contractor are the direct responsibility of Contractor.

4. REPRESENTATIONS.

(a) Contractor represents and warrants that it is not currently an employee of the Agency.

(b) Contractor agrees that it shall comply with all applicable federal and state laws, rules and regulations including Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act Of 1973, the Americans with Disabilities Act of 1990 (ADA) and the Age Discrimination in Employment Act of 1967.

5. DISCLOSURE. Contractor declares that neither Contractor nor any of its subcontractors or employees rendering services pursuant to this Agreement is held in abeyance or barred from the award of a federal or state contract at the time of executing this Agreement; and Contractor will give immediate notification to the Agency if such occurs anytime during the term of this Agreement.

6. IMMIGRATION REFORM AND CONTROL ACT. Contractor agrees to maintain appropriate identification and employment eligibility documents and complete a W-9 form to meet requirements of the Immigration Reform and Control Act of 1986.

7. REQUIRED REPORTING REGARDING LICENSURE. Contractor shall report to Agency any allegation that a professional licensed or certified by the State of Texas and employed by the Contractor has committed an action that constitutes grounds for the denial or revocation of the certification or license. Contractor will further report to Agency if any professional has had his/her professional license revoked. If Contractor's employee has such a denial or revocation, and Contractor fails to remove such employee, then this Agreement may be terminated without prior notice.

8. CONTRACTOR'S GOVERNING BODY. Contractor agrees to provide Agency with a list of the members of Contractor's governing body, if applicable.

9. ACCESS. Contractor agrees, pursuant to Texas Health and Safety Code, Section 534.060, that the Agency and its representatives, including independent financial auditors, shall have unrestricted access to all facilities, service providers, records, data, and other information under the control of the contracting entity or its Contractors/subcontractors as necessary to enable the HHSC or the Agency to audit, monitor, and review all financial or programmatic activities and services associated with this Agreement.

In compliance with Section 2262.003, Government Code, as amended by House Bill 905 of the 79th Regular Session of the Texas Legislature, effective on June 18, 2005, The HARIS CENTER and the Contractor do hereby agree that:

(a) The State Auditor's Office (SAO) may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract;

(b) Acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds; and

(c) Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the SAO must provide the state auditor with access to any information the state auditor considers relevant to: (A) evaluating the entity's performance under the contract or subcontract; (B) determining the state's rights or remedies under the contract; (C) evaluating whether the entity has acted in the best interest of the state.

10. INVOICE REQUIREMENTS

Invoices or claim forms for payment must be submitted by the fifth (5th) calendar day of the month *following* the month in which the services were rendered. All invoices or claim form **must be received no later than forty-five (45) calendar days** after the end of the month in which services were rendered. Invoices or claim forms that are **received** later than forty-five (45) days after the end of the month in which the services were rendered will not be paid. Invoices or claims must be submitted in the following manner:

- (a) Invoice(s) must be submitted in **DUPLICATE**;
- (b) Invoice(s) must include The HARRIS CENTER's purchase order number. The PO number can be found on the fully executed copy of the contract in the top right hand corner.
- (c) Send original invoice(s) to the Agency staff member authorized to approve billing.
- (d) Mark the second copy as **DUPLICATE** and send to Accounts Payable at the following address or by facsimile:

The HARRIS CENTER for Mental Health and IDD
P.O. BOX 25381
Houston, Texas 77265
Attention: Accounts Payable
Fax (713) 970-7681

11. RECEIPTS AND RECORDS

Contractor must retain all financial records, supporting documents, statistical records, and any documents pertinent to this Contract until seven (7) years after termination of this contract or until any audits, in progress at the end of the seven (7) year period, are complete, whichever is later. Contractor agrees to provide the Agency, upon request, with original receipts for the purchase of all goods and services involving the use of Agency funds as well as any other financial and/or supporting documents or statistical records.

12. CONTRACTUAL ABEYANCE OR BAR AND DISCLOSURE

Contractor certifies that the Contractor and all Subcontractors are not held in abeyance or barred from an award of federal or state contracts at the time of executing this agreement. Contractor must notify Agency if Contractor is now or later held in abeyance or barred from an award of a federal or state contract during the term of this agreement.

13. INDEMNIFICATION

Contractor hereby agrees to indemnify and hold harmless the Agency and all of its Directors, Officers, Employees and Agents from all suits, actions, claims or cost of any character, type or description brought or made on account of any injuries, death or damage received or sustained by any person or persons or property, including but not limited to clients, arising out of or occasioned by any acts or negligence of Contractor or Contractor's personnel, if any, or its agents

or employees whether occurring during the performance of the services hereunder or in the execution of the performance of any of its duties pursuant to this Agreement.

V. OBLIGATIONS OF THE AGENCY

PAYMENT

(a) In consideration of the obligations undertaken by Contractor, the Agency agrees to pay Contractor in accordance with the fee schedule attached as Exhibit A1 in an amount not to exceed _____ for the Agency fiscal year 2020-2021.

(b) Payment amount will be based on a monthly invoice, which shall reflect the services provided by the Contractor and as approved by the Agency employee authorized to approve billing(s) as set forth above. Payment shall be made forty-five (45) days after receipt of goods, services, or invoice, whichever is latest. Payment may be delayed, adjusted or withheld, where a deficiency is noted in goods, services, or invoices received. The HARRIS CENTER retains the right to offset payments for prior invoices that were paid and later found to be deficient in any manner.

(c) Franchise Tax. If Contractor is a corporation and is at the time of contracting or later becomes delinquent in the payment of its Texas franchise tax, then payments to the Contractor due under this Agreement may be withheld until such delinquency is remedied.

VI. INSURANCE

(a) POLICIES, COVERAGE'S, AND ENDORSEMENTS.

Contractor agrees to maintain, or to cause its personnel providing services under this Agreement to maintain, at its sole cost and expense or the cost and expense of his personnel, the following insurance policies, with specified coverages and limits, as required by the Agency at the time of executing the agreement, to protect and insure the Agency and Contractor against any claim for damages arising in connection with Contractor's responsibilities or the responsibilities of Contractor's personnel under this Agreement and all extensions and amendments thereto.

(1) Commercial General Liability

General Aggregate	\$3,000,000
Each Occurrence	\$1,000,000

(2) Professional Liability

General Aggregate	\$1,000,000
Each Occurrence	\$1,000,000

(3) Business Automobile if transporting our consumers.

Combined Single Limit Bodily Injury & Property Damage	\$500,000
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(4) Workers' Compensation & Employers' Liability if applicable

Medical & Indemnity	Statutory Requirements
Bodily Injury by Accident	\$500,000 Each Accident
Bodily Injury by Disease	\$500,000 Each Employee
Bodily Injury by Disease	\$500,000 Policy Limit

(b) INSURED PARTIES.

All policies **excluding professional liability, employer's liability and worker's compensation** shall contain a provision naming the Agency as Additional Insured on the original policy and all renewals or replacements during the term of this Agreement.

(c) SUBROGATION.

All policies must contain a Waiver of Subrogation endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against the Agency, its officers, agents or employees.

(d) PROOF OF INSURANCE.

The policies, coverages and endorsements required by this provision shall be shown on a Certificate of Insurance on which the Agency must be listed as an **Additional Insured party (excluding professional liability or employer's liability)** and the **Certificate Holder** and which should be furnished to the Agency prior to the commencement of this Agreement. All such insurance shall be secured and maintained with an insurance company, or companies, licensed to do business in the State of Texas. The Agency may withhold payments under the terms of this Agreement until the Contractor furnishes the Agency copies of all Certificates of Insurance from the insurance carrier, or carriers, showing that such insurance is in full force and effect.

(e) CANCELLATION.

New Certificates of Insurance shall be furnished to the Agency at the renewal date of all policies named on these Certificates. Contractor shall give the Agency thirty (30) days prior written notice of any proposed cancellation of any of the above described insurance policies.

VII. NOTICES

Any required notice shall be in writing and shall be sent, postage prepaid, by certified mail, return receipt requested, to Agency or Contractor at the address below. The notice shall be effective on the date of delivery indicated on the return receipt.

If to the Agency:

Wayne Young, MBA, LPC, FACHE
Chief Executive Officer
The HARRIS CENTER for Mental Health and IDD
PO Box 25381
Houston, Texas 77265-5381

If to Contractor:

Name _____
Address _____
Suite _____
Houston, Texas 77 _____

VIII. INDEMNIFICATION

Contractor hereby agrees to indemnify and hold harmless the Agency and all of its directors, officers, employees, and agents from all suits, actions, claims, or cost of any character, type, or description brought or made on account of any injuries, death, or damage received or sustained by any person or persons or property, including but not limited to clients, arising out of or occasioned by any negligent acts of Contractor or Contractor's personnel, if any, or its agents or employees whether occurring during the performance of the services hereunder or in the execution of the performance of any of its duties under this Agreement.

IX. TERM AND TERMINATION

(1) **TERM.** This Agreement *initially* is made effective upon date of execution until August 31, 2018, the end of the Agency fiscal year. The Agency at its *option* may renew contract annually for four (4) successive one year terms. Any subsequent term will begin Sept 1 and end August 31 of each successive year unless terminated as stated hereunder:

- (a) **IMMEDIATE TERMINATION.** Agency may terminate this Agreement immediately if: Agency does not receive the funding to pay for designated services under this Agreement from the Texas Legislature;
- (b) Agency has cause to believe that termination of the Agreement is in the best interests of the health and safety of the mentally disabled persons served under this Agreement, if applicable;
- (c) Contractor has become ineligible to receive Agency funds;
- (d) Contractor has its Texas license or certification suspended or revoked; if applicable
- (e) In the case of the Contractor providing direct services to clients, failure to disclose a criminal conviction;
- (e) If the Contractor submits falsified documents or fraudulent billings, or if the Contractor makes false statements.

(2) **RENEWAL OPTIONS.** This Agreement may be renewed at the sole discretion of Agency for up to four (4) one- year renewal options at rate fees specified in the attached Exhibit A1.

(3) **TERMINATION UPON DEFAULT.** Either party may terminate this Agreement after sixty (60) days written notice if the other party is in default of any of the provisions herein and/or any of the provisions in the bid forms or specifications, which are attached hereto and incorporated herein by reference as if set out in full. Such termination shall be ineffective if within said sixty (60) day period Contractor cures such default to the satisfaction of the Agency. The Agency at its sole discretion may extend the period to cure the default for a reasonable time if the Agency determines that the Contractor has initiated action to cure the default within the sixty (60) day period. The Agency reserves the right to suspend services provided by the Contractor and payment for services not authorized during the sixty (60) day cure period, if at the Agency's sole discretion it is determined that suspension is in the best interest of the Agency and/or its consumers.

(4) **TERMINATION WITHOUT CAUSE.** This Agreement may be terminated by either party, without cause, after thirty (30) days written notice to the other party.

(5) **TERMINATION BY MUTUAL CONSENT.** This Agreement may be terminated by the mutual consent of both parties after thirty (30) days written notice to the other party.

X. MISCELLANEOUS PROVISIONS

(a) **NONDISCRIMINATION.** Each party to this Agreement agrees that no person, on the basis of race, color, national origin, religion, sex, age, handicap, or political affiliation, will be excluded from participation, be denied the benefits of, or be subject to discrimination in the provision of any

services hereunder. The parties hereto agree to comply with the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991 as amended.

(b) **BUSINESS ETHICS.** During the course of pursuing contracts, and the course of contract performance, The HARRIS CENTER will maintain business ethics standards aimed at avoiding real or apparent impropriety, abuse, fraud, waste, or conflicts of interest. No substantial gifts, entertainment, payments, loans or other considerations beyond that which would be collectively categorized as incidental shall be made to any employees or officials of Contractor by The HARRIS CENTER employees, directors, officers and agents. At any time Contractor believes there may have been a violation of this obligation or any business ethics standard, Contractor shall notify The HARRIS CENTER of the possible violation.

(c) **CERTIFICATION OF NON-VIOLATION.** Under Texas Government Code §2261.053, Contractor certifies that Contractor has not been convicted of violating federal law in connection with contracts relating to relief, recovery, or reconstruction as a result of Hurricane Rita, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

(d) **CERTIFICATE/DISCLOSURE OF INTERESTED PARTIES.** Effective as of January 1, 2016, pursuant to Texas Government Code §2252.908, a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. This applies to any Agency contract with a "Not to Exceed" value of \$20,000 or more. Interested party means a person who has a controlling interest in a business entity with whom the Agency contracts with or who actively participates in facilitating the contract, or negotiating the terms of the contract, including a broker, intermediary, advisor, or attorney for the business entity. This provision does not apply to an institution of higher education. For more information see https://www.ethics.state.tx.us/whatsnew/elf_info_form_1295.htm.

(e) **LOBBYING AND POLITICAL ACTIVITY.** Contractor shall not use funds received under this Agreement to pay any person for influence or attempting to influence an officer or employee or any agency, federal or state, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any contract or grant or the extension, continuation, renewal, amendment, or modification of any contract or grant.

(f) **REMEDIES.** All rights, powers, and remedies granted either party by any particular term of this Agreement are in addition to, and not in limitation of, any rights, powers, or remedies which it has under any other term of this agreement, at common law, in equity, by statute, or otherwise, and all such rights, powers, and remedies may be exercised separately or concurrently, in such order and as often as may be deemed expedient by either party. No delay or omission by either party to exercise any right, power, or remedy shall impair such right, power, or remedy or be construed to be a waiver of any breach or default or an acquiescence therein. A waiver by either party of any breach or default thereunder shall not constitute a waiver of any subsequent breach or default.

(g) **AMENDMENT.** Unless otherwise specifically provided herein, this Agreement may be amended or changed only by mutual written consent of an authorized representative of the Agency and Contractor.

(h) **SEVERABILITY.** The invalidity or unenforceability of any term or provision hereof shall not affect

the validity or enforceability of any other term (s) or provision (s).

(i) **DISPUTE RESOLUTION.** In the event a dispute arises between the parties involving the provisions or interpretation of any term or condition of the Agreement, and if both parties desire to attempt to resolve the dispute prior to termination or expiration of the Agreement, or withholding payments, then the parties may refer the issue to a mutually agreeable dispute resolution process.

(j) **EXHIBITS.** All Exhibits attached hereto are incorporated herein by reference as if fully set out.

(k) **ELECTRONIC OR FACSIMILE SIGNATURES AND DUPLICATE ORIGINALS.** Pursuant to the requirements of the Uniform Electronic Transactions Act in Chapter 322 of the Texas Business and Commerce Code and the Federal Electronic Signatures in Global and National Commerce Act (beginning at 15 U.S .C. Section 7001), the Parties have agreed that the transactions under this Agreement may be conducted by electronic means. Pursuant to these statutes, this Agreement may not be denied legal effect or enforceability solely because it is in electronic form or because it contains an electronic signature. This Agreement may be executed in duplicate counterparts and with electronic or facsimile signatures with the same effect as if the signatures were on the same document. Each multiple original of this document shall be deemed an original, but all multiple copies together shall constitute one and the same instrument.

(l) **GOVERNING LAW AND VENUE.** This Agreement shall be construed and enforced in accordance with the laws of the State of Texas, and venue shall lie in Harris County, Texas.

(m) **ENTIRE AGREEMENT.** This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings, written or oral agreement between the parties respecting the subject matter herein.

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