

From: [Rejena Bolton](#)
To: agenda@co.hardin.tx.us
Subject: Contracts for 12-28-21
Date: Thursday, December 16, 2021 3:44:39 PM
Attachments: [21GEN3505 - Food Safety ILA - Hardin County - Contract.doc](#)
[Austin Bldg.Lease 295HARDINcoRevised.doc](#)

I would like to have the following items on the next Commissioners Court Agenda please:

- Lease agreement for a satellite Health Services office in Silsbee to house WIC, Immunizations and Indigent Care.
- Lease agreement for the Health Inspector's Software purchased from Harris County for \$20,000 from a FDA/AFDO Grant. No match required.

I will be representing for both items on the agenda. Please let me know if you have any questions. Thanks,

ReJena



ReJena Bolton
Health Inspector
409-209-5359
Rejena.bolton@co.hardin.tx.us

**INTERLOCAL AGREEMENT
BETWEEN HARRIS COUNTY AND
HARDIN COUNTY**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS INTERLOCAL AGREEMENT FOR USE OF Harris County Food Safety Program Software ("Agreement") is entered into upon signature by all parties ("Effective Date") by and between **Hardin County**, Texas (the "User") and **Harris County**, Texas ("Harris County"), a body corporate and politic under the laws of the State of Texas, by and through Harris County Public Health, pursuant to the Interlocal Cooperation Act, Tex. Gov't Code Ann. §791.001 et seq. User and Harris County are referred to herein collectively as the "Parties" and individually as a "Party".

RECITALS:

Harris County owns software which is a complete food safety inspection and reporting system ("Food Safety Program" or "FSP");

User desires to obtain access to FSP in order to manage their food safety program electronically;

Parties find that sharing and using FSP will predominantly serve a public purpose;

Parties agree that the compensation provided in this Agreement is fair compensation for the services provided under this Agreement;

Harris County will ensure the public receives a proper return benefit for allowing access to FSP; and

Harris County will retain sufficient control over all network access to ensure the public purpose is maintained.

NOW, THEREFORE, the Parties, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

TERMS:

ARTICLE I. COUNTY DUTIES

Harris County agrees that during the term of this Agreement, it will provide one or more of the following Services:

- A. Allow the User to access FSP to engage in food safety inspections and to protect against foodborne illnesses.
- B. Provide User with the option to adopt or subscribe to certain FSP customization preferences and to add supplemental modules.
- C. Provide periodic updates to FSP when applicable.

ARTICLE II. USER DUTIES

During the term of this Agreement, the User agrees to:

- A. Maintain the cybersecurity standards as found in Attachment A, Cybersecurity Standards and Procedures.
- B. Affirm that Harris County assumes no cost or responsibility for providing access to FSP;

ARTICLE III. TERM AND TERMINATION

The term of this Agreement commences on the Effective Date and lasts until December 31, 2022 (“Initial Term”). Thereafter, at Harris County’s option, this Agreement will automatically renew on the same terms and conditions for successive one-year terms (each a “Renewal Term”) unless it is terminated by either Party by giving the other Party prior written notice of its intention to terminate not less than ninety (90) days prior to the expiration of the term of this Agreement. Notwithstanding the preceding, this Agreement terminates:

- A. Immediately if User fails to maintain cybersecurity standards found in Attachment A, Cybersecurity Standards and Procedures; or
- B. Upon either Party giving the other Party ninety (90) days prior written notice of its intent to terminate. Should the User terminate this Agreement as provided in this paragraph, the User agrees that payment in full of all obligations owed to Harris County by the User is a condition precedent to termination. Should either Party terminate the Agreement, the User is entitled to a refund of the pro rata share of any prepayment.

ARTICLE IV. LIMIT OF APPROPRIATION

Harris County understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Harris County may become entitled to under this Agreement, and the total maximum sum that the User shall become liable to pay to Harris County for use of FSP under this Agreement, shall not under any conditions, circumstances, or interpretations thereof exceed the sum of Twenty Thousand Dollars and No/100 (\$20,000.00) for the Initial Term of this Agreement and Ten Thousand Dollars and No/100 (\$10,000.00) for each Renewal Term, unless the Renewal Term price is otherwise increased according to Article VIII of this Agreement. This sum represents the total maximum

sum of funds certified available by the County Auditor of Hardin County. Any additional software developments specific to Hardin County will be paid according to Article V.

ARTICLE V. PAYMENT FOR ADDITIONAL FEATURES

Any additional features will be negotiated by both Parties prior to the commencement of agreed upon additions. If User desires additional software features, the User expressly understands and agrees to pay Harris County for the customization and additional modules of the FSP at a rate of One Hundred Fifty Dollars and No/100 (\$150.00) per hour. The User agrees to pay Harris County the entire amount owed for the customization and additional modules within thirty (30) days of the invoice date of such services and completed user acceptance testing. Upon received payment the accepted customization and/or module will be placed in production.

ARTICLE VI. CURRENT FUNDS USED

The User will pay its obligations hereunder from available current revenues.

ARTICLE VII. TERMS OF PAYMENT

User shall pay for the Initial Term in full within thirty (30) days of receiving an invoice from Harris County and prior to January 1st of each Renewal Term, which will commence January 1st, 2023.

ARTICLE VIII. FEE INCREASE

It is expressly understood and agreed that Harris County may increase the fees provided in this Agreement by giving the User written notice of its intention to increase fees at least ninety (90) days before the effective date of the proposed increase.

ARTICLE IX. FAILURE TO PAY; DEFAULT

If the User fails to make any payment of any sum due under this Agreement and such failure continues for forty-five (45) days after Harris County has given the User written notice of such failure, then the User is in default under this Agreement. In the event of the User's default, Harris County has the right to terminate the Agreement, deny the User any service provided by Harris County under this Agreement, and retain all moneys paid to Harris County pursuant to the terms and conditions of this Agreement as liquidated damages. Each and every right and remedy of Harris County and User are cumulative to and not in lieu of each and every other such right and remedy afforded by law and equity.

ARTICLE X. COUNTY FAILURE TO PERFORM

Should Harris County fail to perform as provided under the terms of this Agreement, the User's sole remedy is termination of this Agreement, and Harris County agrees to make a refund to the User of the portion of the pre-paid fee based upon that fractional part of the one-year term remaining under this Agreement.

ARTICLE XI. AVAILABILITY NOT GUARANTEED

It is expressly understood and agreed that one hundred percent (100%) availability at all times is improbable. There are causes beyond reasonable control of Harris County, including, but not limited to, connectivity, software, and hardware issues.

ARTICLE XII. NOTICE

All notices and communications permitted or required under this Agreement are to be mailed by United States Postal Service, certified mail, return-receipt requested, to the following addresses:

FOR HARRIS COUNTY: All notices and communications must be mailed as follows:

Original to: 2223 W Loop S
Houston, TX 77027
Attention: Michael Schaffer

FOR THE USER: 300 West Monroe Street
Kountze, TX 77625
Attn: Judge Wayne McDaniel

E-Invoicing Address: rejena.bolton@co.hardin.tx.us

These addresses may be changed upon giving prior written notice to the other Party. All mailed notices and communications are deemed given and complete upon depositing them in the United States Mail. Notwithstanding any provision to the contrary, the Parties agree that Harris County will provide a yearly invoice to the User by email sent to a mutually agreed upon email address.

ARTICLE XIII. INTELLECTUAL PROPERTY

- A) In accordance with the terms herein, Harris County grants to User, and User accepts from Harris County a perpetual, non-exclusive and non-transferable license to use the current version of FSP (or any other version provided by Harris County to User). User retains access to FSP as long as payment for use is current.
- B) User shall not, either directly, or through a third-party, reverse engineer, disassemble or decompile FSP, or make any attempt in any fashion except as specifically provided in this Agreement to obtain the source code to FSP. User shall not reproduce or distribute FSP, or any part thereof, as part of any other software program.
- C) Harris County shall retain title to all intellectual property rights embodied in FSP. FSP and all copies thereof will at all times remain the sole and exclusive property of Harris County, and User shall obtain no title to FSP.
- D) User owns all rights, title, interest in and to FSP. All data, information, files, or other materials and content that User makes available to Harris County for the purpose of utilizing FSP shall remain the sole property of User.

ARTICLE XIV. NO THIRD-PARTY BENEFICIARIES

Neither Party hereto shall sell, assign, or transfer any of its rights or obligations under this Agreement in whole or in part, without the prior written consent of the other Party. This Agreement shall bind and benefit Harris County and the User and shall not bestow any rights upon any third-party.

ARTICLE XV. APPLICABLE LAW AND VENUE

This Agreement is governed by and construed according to the laws of the State of Texas. Exclusive venue of any action or claim arising out of this Agreement is Harris County, Texas. Failure of either Party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon the default or failure by an appropriate remedy, shall not be considered a waiver of strict compliance with any other obligation hereunder, and shall not be considered a waiver of the exercise of any rights or remedies occurring as a result of any future development or failure of performance.

ARTICLE XVI. ENTIRE AGREEMENT; MULTIPLE COUNTERPARTS

This instrument contains the entire Agreement between the Parties relating to the rights granted and the obligation assumed. Any modifications concerning this Agreement are of no force and effect unless in writing and executed by both Parties.

This Agreement may be executed in multiple counterparts, each having equal force and effect of an original. This Agreement shall become binding and effective only after it has been authorized and approved by the governing bodies of each governmental entity, as evidenced by the signature of the appropriate authority.

[Signature Page Follows]

HARDIN COUNTY

By: _____
WAYNE McDANIEL
COUNTY JUDGE
Date: _____

HARRIS COUNTY

By: _____
LINA HIDALGO
COUNTY JUDGE
Date: _____

Approved:

By: _____
Barbie L. Robinson, MPP, JD, CHC
Executive Director
Harris County Public Health

APPROVED AS TO FORM:
CHRISTIAN D. MENEFE
COUNTY ATTORNEY

By: _____
Sam Kirchhoff
Assistant County Attorney
21GEN3505

ATTACHMENT A
Cybersecurity Standards and Procedures
(follows behind)



PURCHASE ORDER
 HARDIN COUNTY PURCHASING
 300 MONROE
 KOUNTZE, TX 77625

007208

12/16/2021
 PP 03/2022

VENDOR: 009793 HARRIS COUNTY US FOOD & DRUG ADMIN GRAN
 1001 PRESTON ST., SUITE 800
 HOUSTON, TX 77002 TOTAL EXPENSES

Qty	Description	Account	Item Amount	Item Total
1	FOOD SAFETY PROGRAM INSPE SOFTWARE	506-508-572	20,000.00	20,000.00

GRAND TOTAL 20,000.00

BUDGET PROVISIONS HAVE BEEN MADE AND FUNDS ARE
 AVAILABLE OR WILL BE AVAILABLE TO MEET THIS OBLIGATION
 WHEN DUE, PROVIDED THERE IS PROPER AND LEGAL PERFORMANCE.

APPROVED BY Misty Sims PURCHASING AGENT