



Hidalgo County Purchasing Department
2812 S. Business Highway 281
New Administration Building
Edinburg, Texas 78539
(956) 318-2626/ Fax: (956) 318-2629

July 9, 2014, 2014

Dr. Thomas G. Allen, Ph.D.
19479 County Rd. 1321
Flint, Texas 75762

Via Email: thomasgallen@embargmail.com

Re: **Extension of C-13-228-07-17-Professional Consulting and/or Testifying Expert Services-Hidalgo County District Attorney's Office**

Dr. Allen:

Hidalgo County Purchasing Department will be requesting Commissioners' Court to consider the County's option to exercise the extension clause of the professional agreement in place as allowed under 2.2. It is the request of Hidalgo County to extend the primary term of the contract in any increments of months for up to twenty-four months under the same rates, terms and conditions.

Please acknowledge receipt of this notice of placement on the Commissioners' Court meeting of **Tuesday, July 15, 2014** for discussion, consideration and action, by signing below and returning to the Purchasing Department, by no later than **10:00 a.m., Thursday, July 10, 2014 and or sooner**, via facsimile to (956) 956-318-2629 or email to: evangelina.garcia@co.hidalgo.tx.us so as to meet the agenda request form deadlines.

By: _____

Date: _____

Additionally, we are requesting your company provide an updated certificate of insurance as required through Hidalgo County's Request for (Bid, Quote, Proposal, Statement of Qualification).

Should you have any questions or require additional information, please do not hesitate to contact me at (956) 318-2626. Your cooperation in this matter is greatly appreciated and we hope your company continues its business relationship with Hidalgo County.

Sincerely,
Vangie Y. Garcia, Contract's Manager
Hidalgo County Purchasing Department

cc:
department

THE STATE OF TEXAS
COUNTY OF HIDALGO

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CONTRACT FOR SERVICES
CONTRACT NO. C-13-228-07-17

THIS AGREEMENT is made effective the 17th day of July, 2013, by and between the **OFFICE OF CRIMINAL DISTRICT ATTORNEY**, an office of **HIDALGO COUNTY, TEXAS**, a political subdivision of the State of Texas (hereinafter “DA”) and **Dr. Thomas G. Allen, PhD** (hereinafter “Contractor” or “Expert”) to serve at the pleasure of the DA.

WITHNESSETH:

WHEREAS, DA desires to contract with a person to provide the required services of a consulting and/or testifying expert in connection with the legal representation provided to the State of Texas by DA as more specifically described herein; and

WHEREAS, Contractor has represented that he has the expertise to provide the services required by the DA and has agreed to provide the services enumerated hereinafter for the DA.

NOW, THEREFORE, for the mutual consideration expressed hereinafter, DA and Contractor agree as follows:

SECTION 1. PURPOSE. Contractor agrees to provide to DA reasonable and necessary consulting and/or testifying expert services and assistance to the DA in connection with its legal representation of the State of Texas for the term herein stated.

SECTION 2. CONTRACT PERIOD

2.1 Primary Term. This Contract shall commence effective July 17, 2013, and shall terminate one year or upon the completion of Expert’s work described herein, whichever occurs first, unless terminated earlier pursuant to Section 7 of this Contract.

2.2 Optional Term. The DA shall have the right to extend the primary term of this Contract, in any increment of months, for up to twenty-four months. The DA shall provide Expert written notice of its intention to extend the term of the Contract in writing at least thirty (30) days prior to the Contract termination date. The primary term plus the optional extended term(s), if any, shall constitute the “contract period.”

SECTION 3. OBLIGATION OF EXPERT

3.1 General Obligations. The Expert shall be considered to have a fiduciary and confidential relationship with the DA in connection with the matters at issue herein. Expert will perform consulting expert and/or testifying expert services as requested by the DA. Expert shall furnish expert examinations, observations, opinions, consultations, analyses, reports, testimony,

and other services upon the request of the DA. Expert shall be available to provide and present such services, in consultation with the DA, at the dates, time and locations as reasonably requested by the DA.

The scope of work may include, without limitation, reviewing information, providing written reports, participating in conferences by telephone or in person with the DA, or the preparation or furnishing of information or material to be shown to or used by any person who may testify as an expert in any such trial or hearing.

3.2 Staff. Unless otherwise specifically provided and agreed, Expert shall personally perform all professional services under this Contract.

3.3 Reports. No written reports shall be generated by the Expert, his or its assistants, employees, agents, or subcontractors without the prior authorization of the DA. All written reports shall be considered 'draft reports' until designated as 'final reports' by the DA. Expert warrants that any and all reports conform to applicable professional and/or industry standards and practices.

All documents and tangible things including, but not limited to, analyses, reports, storage tapes, discs or other media, papers, books, accounts, drawings, graphs, charts, photographs, electronic or videotape recordings, data, and/or data compilations used, prepared, developed, supplied, commissioned, gathered or generated by the Expert in the performance of its obligations under this Contract, and/or provided by the DA or any other or any other person or entity to the Expert in order that it may perform the services required under this Contract are referred to as "Documents." All Documents that are specially prepared, developed, supplied, commissioned, gathered or generated by the Expert in the performance of its obligations under this Contract are the exclusive property of the DA. All such Documents shall be delivered to the DA by the Expert upon completion or any termination of this Contract. The Expert shall not use, permit, or cause to have such Documents to be used for any purpose other than performance of its obligations under this Contract without the prior written consent of the DA. Documents created or obtained by the Expert prior to his employment by the DA may continue to be used by the Expert as he may see fit. The Expert agrees that any software and related Documents developed under this contract is the exclusive property of the DA, and the Expert hereby assigns any all ownership interest in the same, if any, (including, but not limited to, trade secrets, patents, copyrights, and/or trade marks) to the DA. The DA's exclusive ownership of same survives the termination of this Contract. The DA shall have unrestricted authority to reproduce, distribute and use any Document in whole or in part. No Document produced in whole or in part with the funds provided to the Expert from the DA shall be subject to trade mark, copyright, or patent by the Expert in the United State or any other country.

3.4 Specific Tasks. From time-to-time Expert may be requested to perform specific tasks under this Contract. The desired tasks may be communicated to Expert by the Criminal District Attorney representing the State of Texas through different forms or mediums. Any communication that purports to enlarge the Maximum Liability of the DA or alters any provision of this Contract, other than to define the specific performances and schedule of performances

required of Expert, is considered an amendment and is voidable by the DA unless executed in accordance with the terms of this Contract.

SECTION 4. SCHEDULE FOR PERFORMANCE OF SERVICES BY EXPERT

4.1 Schedule. Time is of the essence in the rendering of services required by this Contract. The DA may require Expert to perform tasks or services according to a date sensitive schedule.

4.2 Starting Tasks. Expert will not be compensated for any time expended or expense incurred before the effective date of this Contract.

SECTION 5. MAXIMUM LIABILITY OF DA AND COUNTY

The parties stipulate and agree that the DA's total liability to Expert, including consideration for the full, satisfactory and timely performance of all its duties, responsibilities and obligations, and for reimbursement of all expenses, if any, as set forth in this Contract or arising out of any performance herein shall not exceed FIFTEEN THOUSAND AND NO/100 (\$ 15,000.00) DOLLARS per case identified in the attached Exhibit "A" for the Contract Period. The parties stipulate and agree that any act, action or representation by either party, their agents or employee that purport to increase the liability of the DA is voidable by the DA, unless this Contract is amended. The parties further acknowledge and agree that nothing in this agreement will be interpreted to create a future obligation or liability in excess of the funds currently appropriated to the DA.

SECTION 6. COMPENSATION

6.1 Payments to Expert. The Expert agrees to abide by the following payment/reimbursement structure and/or schedule:

6.1.1 Compensation for Services/Time. In consideration of full and satisfactory performance of the services hereunder, the DA shall pay Expert for work performed pursuant to this Contract according to the following schedule:

- (1) **Hourly Rate.** The hourly rate for expert services performed shall not exceed TWO HUNDRED (\$200.00) DOLLARS per hour for evaluating, interviewing, and testing petitioner, or third parties, scientific testing of physical evidence, and testifying in court or at a deposition; ONE HUNDRED AND FIFTY (\$150.00) DOLLARS per hour for document review including review or other expert's raw data and reports and preparation for deposition or hearing testimony, including consultation with DA attorneys; ONE HUNDRED (\$100.00) DOLLARS per hour for time spent in court listening to the testimony of other experts and witnesses; ONE HUNDRED (\$100.00) DOLLARS per hour for time traveling to and from the location where services are to be performed.

- (2) **Other:** The hourly rate for other employees of Expert must be approved in writing by the DA before such work is undertaken. In no event shall such hourly rates exceed those amounts set forth in this subsection.

6.12 Reimbursement of Expenses. The DA will reimburse Expert for the reasonable actual expenses necessary for the performance of the services herein with the exception of travel-related expenses such as hotel stays, meals, mileage, etc. For copies made by the Expert, the DA will reimburse the Expert for reasonable actual copying expenses up to \$0.10 per page. For facsimile copies sent or received by Expert, the DA will reimburse the Expert for reasonable actual long distance charges. Expert must provide original receipts as evidence of actual expenditures. Such reimbursement shall be claimed on the forms, in the manner, and with the documentation specified by the DA. All other expenses will be invoiced at actual cost. No mark-up will be allowed on reimbursable Contracts, expenses or subcontract expenses.

If the DA provides prior approval, the DA reserves the right to reimburse Expert for expenses that are different in type or amount from those described herein.

6.2 Invoice for Payment. All statements for services and expenses incurred shall be submitted to the DA on a monthly basis. By submission of the statements, Expert is warranting the following: (1) its invoices have been carefully reviewed to ensure that all invoiced services have been performed or delivered; (2) that the services have been performed in compliance with all terms of the Contract; (3) that the amount of each new invoice added together with all previous invoices does not exceed the amount stated in section 5; and (4) the charges and expenses shown on the invoice are reasonable, necessary, and where applicable, such expenses do not exceed the amounts provided for in this Contract, and that all supporting documentation is attached.

Each invoice presented must include: (1) the DA's Contract number; (2) the Expert's federal tax identification number or social security number, as applicable; (3) the name and division of the DA contact; (4) description of the services/expense(s) and the dollar amount attributable to each; (5) the name of the person providing the service and the hourly rate charged by such person; (6) an itemization of hourly charges, broken down in 1/10 of an hour increment; and (7) any Section 6.4 discount Expert elects to offer. The Expert acknowledges that documents generated in the course of consultation may be subject to the Texas Public Information Act or maybe subject to discovery.

Upon the request of the DA, the Expert must submit to the DA any additional documentation or explanation the DA may desire to support or document the requested payment under this Contract.

The invoices must be submitted to:

Office of Hidalgo County Criminal District Attorney
Hidalgo County Courthouse
100 N. Clossner, Room 303

Edinburg, Texas 78539
Attn: Roxana Segovia

6.3 Discounts. On each invoice, Expert will identify: (1) the total due and payable; and (2) a discounted amount due and payable, if any, for payments made to Expert sooner than the 30 day time period identified in Section 6.4 for Prompt Payment. The obligation to offer a discount is discretionary with Expert.

6.4 Prompt Payment. Upon acceptance of Expert's performance and receipt of an acceptable invoice required to be submitted under this section, the COUNTY will pay the Expert an amount in accordance with Chapter 2251 of the Texas Government Code. It is the policy of the COUNTY to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice, unless the COUNTY decides to take advantage of an offered discount for early payment as described in Section 6.3.

SECTION 7. TERMINATION

7.1 Convenience of the State. The DA reserves the right, in its sole discretion and at its sole option, to terminate this Contract, in whole or in part, without a penalty, by notifying Expert in writing of such termination. Such notification of termination shall state the effective date of such termination and if no effective date is specified, the termination shall be effective upon the date of the notification. In the event of such a termination, Expert shall, unless otherwise mutually agreed upon in writing, immediately cease all services or if an effective date is specified, cease all services on the effective date. The DA shall be liable for payments for all reasonable and necessary services performed to the effective date or termination, and any services agreed by the DA to be reasonable and necessary to cost effectively wind up the services.

7.2 Cause/Default. In the event that Expert fails to provide the agreed upon services according to the provisions of this Contract, or fails to comply with any of the terms or conditions of this Contract, the DA may upon written notice of default to Expert, immediately terminate all or any part of this Contract. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law, or under this Contract.

7.3 Rights Upon Termination or Expiration. Upon expiration or termination of this Contract for any reason, all Documents shall remain the property of the DA, and shall be delivered to the DA within three (3) business days after expiration or termination of this Contract. The DA is granted the unrestricted right to use, copy, modify, prepare derivative works, publish and distribute, at no additional cost to the DA, in any manner the DA deems appropriate in its sole discretion, any component of the Documents, work product or other deliverables made the subject of this Contract. Upon the termination, completion or expiration of this Contract, exclusive ownership of all Documents, work products produced or other deliverables in connection with this Contract shall remain solely vested in the DA.

7.4 Remedies. Notwithstanding any exercise by the DA of its rights of early termination pursuant to this section, Expert shall not be relieved of any liability to the DA for damages due to the DA by virtue of any breach of this Contract by Expert or for amounts otherwise due the DA by Expert.

SECTION 8. CERTIFICATIONS OF EXPERT

By agreeing to and signing this Contract, Expert hereby makes the following certifications and warranties:

8.1 Expert License. Expert certifies that each person assigned by it and/or by each work order under this Contract holds an appropriate professional designation or license and that each of the professional staff is in good standing under the laws of the State of Texas, or other relevant States, or with the professional association, as appropriate. Expert agrees that it will notify the DA in writing within one (1) business day of any lapse in any member's license or professional status.

8.2 Previous Employment with the Office of Hidalgo County Criminal District Attorney. Expert certifies that none of the people who will perform the services under this Contract have been employed by the DA within the previous twelve (12) months.

8.3 Conflict of Interest. Expert certifies that neither it nor the personnel or entities employed in rendering services under this Contract have, nor shall they knowingly acquire, any interest that would be adverse to or conflict in any manner with the performance of Expert's obligations under this Contract.

8.4 Gifts to Public Servant. Expert warrants that it has not given nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the award of this Contract.

8.5 Corporate Franchise Tax. By signing this Contract, Expert certifies that its Texas franchise tax payments are current or that it is exempt from, or not subject to, such tax.

8.6 No Claims. Expert certifies that Expert does not have any potential or existing claims against or unresolved audit exceptions with the State of Texas or any agency of the State of Texas.

8.7 Debt to State. Expert acknowledges and agrees that, to the extent Expert owes any debt or delinquent taxes to the State of Texas, any payment's Expert is owed under this Contract will be applied by the Comptroller of Public Accounts toward any debt or delinquent taxes Expert owes the State of Texas until the debt or delinquent taxes are paid in full.

8.8 Buy Texas. With respect to all services, if any, purchased pursuant to this Contract, Expert represents and warrants that it will buy Texas products and materials for use in providing the services authorized herein when such products and materials are available at a comparable price and in a comparable period of time when compared to non-Texas products and materials.

SECTION 9. GENERAL TERMS AND CONDITIONS

9.1 Independent Contractor/Indemnification. Expert agrees and acknowledges that during the existence of this Contract, it acts as a consulting expert or testifying expert witness to the DA in connection with legal representation in the lawsuit, that Expert is furnishing services in the capacity of an independent contractor and that Expert is not an employee of the DA or the State of Texas.

9.1.1 EXPERT WILL BE SOLELY AND ENTIRELY RESPONSIBLE FOR ITS ACTS AND THE ACTS OF ITS AGENTS, EMPLOYEES, AND REPRESENTATIVES DURING THE PERFORMANCE OF THIS CONTRACT. EXPERT AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE DA, THE STATE OF TEXAS, THE COUNTY OF HIDALGO, TEXAS AND/OR THEIR ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES, WHICH ARISE FROM OR ARE OCCASIONED BY THE NEGLIGENCE, MISCONDUCT, OR WRONGFUL ACT OR OMISSION OF EXPERT, ITS EMPLOYEES, REPRESENTATIVES, AGENTS OR SUBCONTRACTORS IN ITS PERFORMANCE UNDER THIS CONTRACT, REGARDLESS OF THE NEGLIGENCE OF THE DA, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES.

9.1.2 Expert agrees and acknowledges that during the existence of this Contract, Expert shall be entirely responsible for the liability and payment of Expert's, Expert's employees' or Expert's assistants' taxes of whatever kind, arising out of the performances in this Contract. Expert agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers' compensation. Other than the payments as described in Section 6 of this Contract, Expert agrees and acknowledges that Expert or Expert's employees or Expert's assistants shall not be entitled to any state benefit. The DA shall not be liable to the Expert, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or workers' compensation or any benefit available to a state employee. **EXPERT AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE DA, THE STATE OF TEXAS, COUNTY OF HIDALGO, TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR EXPECTATIONS OF BENEFITS BY EXPERT, ITS EMPLOYEES, REPRESENTATIVES, AGENTS OR SUBCONTRACTORS IN ITS PERFORMANCE UNDER THIS CONTRACT.**

9.1.3 IN THE EVENT OF LOSS, DAMAGE, OR DESTRUCTION OF ANY PROPERTY OF THE DA DUE TO THE NEGLIGENCE, MISCONDUCT, WRONGFUL ACT OR OMISSION ON THE PART OF THE EXPERT, ITS EMPLOYEES, AGENTS REPRESENTATIVES, OR SUBCONTRACTORS, THE EXPERT SHALL PAY THE FULL COST OF EITHER REPAIR, RECONSTRUCTION, OR REPLACEMENT OF THE PROPERTY, AT THE DA'S SOLE ELECTION. Such cost shall be determined by the DA and shall be due and payable by the Expert within ninety (90) calendar days after the date of the Expert's receipt from the DA of a written notice of the amount due.

9.2 Subcontracting. In the event that the Expert should determine that it is necessary or expedient to subcontract for any of the performance herein, the Expert shall submit a copy of the proposed subcontract to the DA and shall obtain the written approval from the DA before subcontracting the subject performances. The Expert, in subcontracting for any performances specified herein, expressly understands and agrees that the DA shall not be liable in any manner to the Expert's subcontractor(s).

In no event shall this section or any other provision of this Contract be construed as relieving the Expert of the responsibility for ensuring that all performances rendered under this Contract, and any subcontracts thereto, are rendered in compliance with all of the terms of this Contract.

9.3 Assistants. The Expert agrees that any person hired or engaged by the Expert and who assists in performing the services agreed to herein shall not be considered employees or agents of the DA. Expert shall be responsible for any payments and other claims due such persons. Further, the Expert agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers' compensation. The DA shall not be liable to the Expert, its employees, agents, or others for the provision of unemployment insurance and/or workers' compensation.

9.4 Assignment. Expert may not assign this Contract or any of its rights or obligations hereunder (including, without limitation, rights and duties of performance) to any third party or entity, without the prior written consent of the DA. Any attempted assignment without the DA's prior written consent is void. The initiation of bankruptcy proceeding by or on behalf of Expert and/or any involuntarily assignment or other assignment by operation of law shall result in the automatic termination of this Contract.

9.5 Confidentiality of Information and Records. During the term of this Contract, as well as thereafter, Expert agrees that all information, Documents, and communications between Expert and the DA shall be confidential and privileged and shall be protected from disclosure to any third-party. All information, Documents, and communications, in whatever form, provided to Expert by the DA pursuant to this Contract shall not be used for any purpose other than providing services within the scope of this Contract and shall not be disclosed to any third-party for any purpose unless the disclosure is required by law, or the DA expressly consents in writing, in advance to each disclosure. Expert agrees it will not use any such information, Documents, and communications to the detriment of the DA or any officer or agency of the State of Texas.

9.5.1 Disclosure. From time to time and on the request of the DA, Expert shall execute written non-disclosure and business associates agreements, as deemed necessary by the DA, to strictly comply with any applicable laws, regulations, and protective orders. In the event that Expert receives any request for information, Documents, or communications provided by the DA, including but not limited to subpoena, court order, search warrant, or other compulsory process, Expert shall immediately notify the DA and cooperate fully with the DA with regard to such request, including performing such acts to protect any attorney-client privilege, attorney work product privilege, and other privilege or protection. In the event that Expert discloses such information, Documents, and communications, Expert shall provide a legible copy of all information so disclosed to the DA. Expert shall comply with all applicable federal and state confidentiality, privacy, and information security laws and regulations, including but not limited to the Health Insurance Portability and Accountability Act, as amended (HIPAA), and not act or fail to act in a manner that would cause, directly or indirectly, the DA or one of DA's Clients to not be in compliance with applicable law.

Expert agrees to mitigate, to the extent practicable, any harmful effect known to Expert of a use or disclosure of any information provided to it by the DA by Expert in violation of this Contract.

9.5.2 HIPAA. In the event that information, Documents, communications include Protected Health Information (PHI) as that term is understood within the context of HIPAA, then at all times, whether or not a protective order has been entered in the litigation, Expert shall use appropriate administrative, physical, and technical safeguards as required in the HIPAA final security rule at a minimum to protect the confidentiality, integrity, and availability of the PHI and to prevent its unauthorized use or disclosure. Expert may only use PHI in providing services within the scope of this contract, provided that such use would not violate HIPAA. Expert shall not disclose PHI to any third party for any purpose unless the disclosure is required by law, or the DA expressly consents in advance to reach disclosure. Expert will immediately report to the DA any use or disclosure of PHI not authorized by this contract of which Expert becomes aware, including any security incident, as that term is defined by HIPAA, or breach of confidentiality of any PHI. Expert will ensure that Expert's employees and agents agree in writing to the restrictions and conditions that apply to Expert with respect to the handling and safeguarding such of PHI (including the restrictions on further disclosure) and agree in writing to implement reasonable and appropriate safeguards to protect PHI. Expert will maintain records, sufficient to allow the DA and DA clients to comply with their respective obligations relating to accountings of disclosures, of all disclosures of PHI to third parties for at least six (6) years from the time of any disclosure. Copies and access to such records shall be provided to the DA and DA client, on request, in the manner and time frame reasonably requested. Expert will make Expert's internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary of the United States Department of Health and Human Services, Office of the State Auditor, the DA, and DA clients for purposes of determining compliance with HIPAA and/or Expert's compliance with Expert's contractual obligations, as the DA or DA clients may instruct, subject to any attorney client or attorney work product privilege or other protection. Upon termination of this contract Expert shall, at the direction of the DA, return to the DA or destroy all PHI that Expert received from the DA. Expert shall retain no copies of such PHI. If return or destruction is not feasible, Expert shall continue the protections of this contract to such PHI, and limit further

use and disclosure of the PHI to those purposes that make the return or destruction of the PHI unfeasible.

9.5.3 Personal Identifying Information. Personal Identity Information. This subsection is applicable to information, Documents, and communications which constitute "personal identifying information," "sensitive personal information," "victim," "driver's licenses," "social security numbers," "identifying financial information," "biometric identifiers," "use of crime victim or motor vehicle accident information," "use of zip code to verify customer's identity," "financial information," "unique electronic identification number, address, or routing code" and "access device" (referred to collectively herein as "Personal Identity Information") as those terms are understood or defined in TEX. BUS. & COMM. CODE Sec. 72.001(2), TEX. BUS. & COMM. CODE Chapter 501, TEX. BUS. & COMM. CODE Chapter 505, TEX. BUS. & COMM. CODE Chapter 521 and/or TEX. GOV'T CODE Sec. 552.136, In the event of an unauthorized disclosure by Expert of Personal Identity Information, Expert shall immediately notify the DA in writing of such disclosure.

9.6 Record Retention. Unless otherwise directed by the DA, Expert shall retain all Documents relating to this Contract. Upon the request of the DA, Expert shall allow representatives of the DA to review and/or audit said Documents at all reasonable times. After the expiration of this Contract, Expert shall return Documents to the DA as required by Section 7.3.

9.7 Survival. The obligations of Expert survive the expiration or termination of this Contract.

9.8 Intellectual Property. THE EXPERT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE DA, THE STATE OF TEXAS, THE COUNTY OF HIDALGO, TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES AGAINST ANY CLAIM OF COPYRIGHT, TRADEMARK OR PATENT INFRINGEMENT, OR OTHER INTELLECTUAL PROPERTY INFRINGEMENT ARISING IN CONNECTION WITH THE PERFORMANCES OR ACTIONS OR EXPERT PURSUANT TO THIS CONTRACT. THE EXPERT SHALL BE LIABLE TO PAY ALL COSTS, DAMAGES, AND ATTORNEYS' FEES INCURRED BY THE DA RESULTING FROM SUCH CLAIMS INCLUDING ANY CLAIM FOR THE INFRINGEMENT OF ANY UNITED STATES OR INTERNATIONALLY PROTECTED PATENTS OR COPYRIGHTS ARISING FROM THE USE BY THE EXPERT OR THE DA, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES OF ANY EQUIPMENT, MATERIALS, INFORMATION, OR IDEAS EMPLOYED OR FURNISHED BY THE EXPERT IN CONNECTION WITH THE PERFORMANCES CALLED FOR IN THIS CONTRACT. The Expert and the DA agree to furnish timely written notice to each other of any such claim.

9.9 Media Releases or Pronouncements. The Expert understands that the DA does not endorse any vendor, commodity good, or service. The Expert, its employees, representatives, subcontractors or other agents may not issue any media release, advertisement, publication, or

public pronouncement which pertains to this Contract or the services or project to which this Contract relates or which mentions the DA without the prior written approval of the DA.

9.10 Written Notice Delivery

9.10.1 Any notice required or permitted to be given under this Contract by the DA to the Expert shall be in writing and shall be deemed to have been given immediately if delivered by fax, e-mail, or in person to the Expert as set forth in this section. Any notice required or permitted to be given under this Contract by certified mail return receipt requested shall be deemed to have been given on the date of attempted or actual delivery to the recipient if addressed to the receiving party at the address specified in this section.

9.10.2 Expert's Mailing Address. The mailing address of the Expert for all purposes under this Contract and for all notices hereunder shall be:

Thomas G. Allen, Ph.D.
19479 County Rd. 1321
Flint, TX 75762

9.10.3 DA's Address. The address of the DA for all purposes under this Contract and for all notices hereunder shall be sent by registered or certified mail with return receipt to:

Office of Hidalgo County Criminal District Attorney
Hidalgo County Courthouse
100 N. Clossner, Room 303
Edinburg, Texas 78539

9.11 Immunity. The Parties stipulate and agree that no provision of, or any part of the Contract between the DA and Expert shall be construed as a waiver of the doctrine of sovereign immunity or immunity from suit as provided for in the Texas Constitution and the Laws of the State of Texas and or the 11th Amendment to the United States Constitution. Nothing in this Contract should be construed to abrogate any rights, privileges or affirmative defenses available to the DA under the doctrines of sovereign and official immunity.

9.12 Taxes. This Contract shall not be construed so as to supersede the Laws of the United States or the State of Texas which accord the State of Texas, the DA, and all departments, agencies, and instrumentalities of the State of Texas exemptions from the payment(s) of all taxes of whatever kind. More specifically the DA shall not directly or indirectly be liable for taxes of whatever kind. More specifically the DA shall not directly or indirectly be liable for taxes of whatever kind. To the extent allowed by law, the DA may provide upon the request of Expert all applicable tax exemption documentation or information.

9.13 Signatories. Having agreed to the terms herein, Expert hereby represents and warrants that it has authority to enter into this Contract. The parties agree that the Hidalgo County

9.14 Applicable Law and Venue. This Contract is made and entered into in the State of Texas, and this Contract and all disputes arising out of or relating to the Contract and/or the work Orders shall be governed by the laws of the State of Texas, without regard to any otherwise applicable conflict of law rules or requirements.

Expert agrees that the DA and/or the State do not waive any immunity (including, without limitation, sovereign immunity). Expert further agrees that any properly allowed litigation arising out of or in any way relating to this Contract and/or any Work Order shall be commenced exclusively in the state district courts of Hidalgo County, Texas. Expert thus hereby irrevocably and unconditionally consents to the exclusive jurisdiction of the state district courts of Hidalgo County, Texas for the purpose of prosecuting and/or defending such litigation. Expert hereby waives and agrees not to assert: (a) that Expert is not personally subject to the jurisdiction of the state district courts of Hidalgo County, Texas, (b) that the suit, action or proceeding is brought in an inconvenient forum, (c) that the venue of the suit, action or proceeding is improper, or (d) any other challenge or jurisdiction or venue.

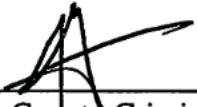
9.15 Amendments. This Contract may be amended only upon written agreement signed by all parties to this Contract.

9.16 Severability/Interpretation. The fact that a particular provision is held under any applicable law to be void or unenforceable will in no way affect the validity of other provisions and the Contract will continue to be binding on both parties. Any provision that is held to be void or unenforceable will be replaced with language that is as close as possible to the intent of the original provision. Any vague, ambiguous or conflicting terms shall be interpreted and construed in such a manner as to accomplish the purpose of the Contract.

IN WITNESS HEREOF, THE PARTIES HAVE SIGNED AND EXECUTED THIS CONTRACT IN MULTIPLE COUNTERPARTS.

Office of Hidalgo County Criminal District Attorney

Contractor/Expert



Hidalgo County Criminal District Attorney
or his designee

by: *Michael L. Garcia*
Assistant District Attorney

Date: 7/19/13



Thomas G. Allen, Ph.D.

Psychologist
(address) 19479 CR 1321
Flint, TX 75762

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