

THE STATE OF TEXAS §
COUNTY OF WILLIAMSON §

**SERVICES CONTRACT
FOR CONSULTING ACTUARY
(Milliman, Inc.)**

THIS SERVICES CONTRACT (hereinafter “Contract”) is made and entered into by and between **Williamson County, Texas** (hereinafter “The County”), a political subdivision of the State of Texas, acting herein by and through its governing body, and **Milliman, Inc.** with offices at 333 Clay St., Ste. 4330, Houston, TX 77002, (hereinafter “Service Provider”). The County agrees to engage Service Provider as an independent contractor, to assist in providing certain operational services pursuant to the following terms, conditions, and restrictions:

I.

Services: Service Provider shall provide services *as an independent contractor* pursuant to terms and policies of the Williamson County Commissioners Court. Service Provider expressly acknowledges that it is not an employee of The County. The services include, but are not limited to actuary consulting services.

II.

Effective Date and Term: This contract shall be in full force and effect when signed by all parties and shall continue for the current fiscal year through September 30, 2020. Unless terminated by either party pursuant to paragraph X below, the contract will automatically renew for up to two additional one-year terms for fiscal year 2021 and fiscal year 2022. After fiscal year 2022, the contract must be revisited by The County’s governing body.

III.

Consideration and Compensation: Service Provider will be compensated based on a fixed sum for the specific project herein. **The not-to-exceed amount under this agreement is \$21,000.00, and renewals may not exceed 5% increase from the previous year, unless amended by a change order and approved by the Williamson County Commissioners Court.** Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date the performance of the service under the contract is completed; or (2)

the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by The County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of The County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

IV.

Insurance: Service Provider shall provide and maintain, until the services covered in this Contract is completed and accepted by The County, the minimum insurance coverage in the minimum amounts as described below. Coverage shall be written on an occurrence basis by companies licensed to do business in the State of Texas as admitted or surplus lines carriers and rated A- or better by A.M. Best Company or otherwise acceptable to The County. Service Provider's Comprehensive General Liability policies shall name The County as an additional insured.

Type of Coverage	Limits of Liability
a. Worker's Compensation	Statutory
b. Employer's Liability	
Bodily Injury by Accident	\$500,000 Ea. Accident
Bodily Injury by Disease	\$500,000 Ea. Employee
Bodily Injury by Disease	\$500,000 Policy Limit
c. Comprehensive general liability including completed operations and contractual liability insurance for bodily injury, death, or property damages in the following amounts:	

COVERAGE	PER OCCURRENCE
Comprehensive General Liability <i>(including premises, completed operations and contractual)</i>	\$ 500,000
Aggregate policy limits:	\$1,000,000

Service Provider, as an independent contractor, meets the qualifications of an "Independent Contractor" under Texas Worker's Compensation Act, Texas Labor Code, Section 406.141, and must provide its employees, agents and sub-subcontractors worker's

compensation coverage. Contactor shall not be entitled to worker's compensation coverage or any other type of insurance coverage held by The County.

Upon execution of this Contract, Service Provider shall provide The County with insurance certificates evidencing compliance with the insurance requirements of this Contract.

V.

Entire Contract & Incorporated Documents: This Contract constitutes the entire Contract between the parties and may not be modified or amended other than by a written instrument executed by both parties.

VI.

No Agency Relationship: It is understood and agreed that Service Provider shall not in any sense be considered a partner or joint venturer with The County, nor shall Service Provider hold itself out as an agent or official representative of The County unless expressly authorized to do so by a majority of the Williamson County Commissioners Court. Service Provider shall be considered an independent contractor for the purpose of this Contract and shall in no manner incur any expense or liability on behalf of The County other than what may be expressly allowed under this Contract.

VII.

INDEMNIFICATION - EMPLOYEE PERSONAL INJURY CLAIMS: TO THE FULLEST EXTENT PERMITTED BY LAW, THE SERVICE PROVIDER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY, AND THE COUNTY'S EMPLOYEES, AGENTS, REPRESENTATIVES, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE "INDEMNITEES") AND SHALL ASSUME ENTIRE RESPONSIBILITY AND LIABILITY (OTHER THAN AS A RESULT OF INDEMNITEES' NEGLIGENCE) FOR ANY CLAIM OR ACTION BROUGHT AGAINST THE INDEMNITEES BY ANY THIRD PARTY TO THE EXTENT ARISING OUT OF OR RESULTING FROM THE PERSONAL INJURY, OR DEATH, OF ANY EMPLOYEE OF THE SERVICE PROVIDER, OR OF ANY SUBCONTRACTOR, OR OF ANY OTHER ENTITY FOR WHOSE ACTS THEY MAY BE LIABLE, WHICH OCCURRED OR WAS ALLEGED TO HAVE OCCURRED ON THE WORK SITE OR IN CONNECTION WITH THE PERFORMANCE OF THE WORK. THIS INDEMNIFICATION SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION, OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS COMPENSATION ACTS, DISABILITY BENEFITS ACTS, OR OTHER EMPLOYEES BENEFIT ACTS.

INDEMNIFICATION - OTHER THAN EMPLOYEE PERSONAL INJURY CLAIMS: TO THE FULLEST EXTENT PERMITTED BY LAW, SERVICE PROVIDER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY, AND THE COUNTY'S EMPLOYEES, AGENTS, REPRESENTATIVES, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES, FOR ANY CLAIM OR ACTION BROUGHT AGAINST THE

INDEMNITEES BY ANY THIRD PARTY TO THE EXTENT ARISING OUT OF OR RESULTING FROM THE GROSS NEGLIGENCE, INTENTIONAL FRAUD, OR WILLFUL MISCONDUCT IN THE PERFORMANCE OF THIS AGREEMENT OR THE WORK DESCRIBED HEREIN BY SERVICE PROVIDER OR ITS SUBCONTRACTORS, ANYONE EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE.

INDEMNIFICATION - PROCEDURES: THE COUNTY AGREES THAT IT WILL PROMPTLY NOTIFY AND TENDER THE DEFENSE TO SERVICE PROVIDER OF ANY INDEMNIFIED CLAIM, PROVIDED THAT THE COUNTY'S FAILURE TO PROVIDE PROMPT NOTICE SHALL NOT RELIEVE SERVICE PROVIDER FROM LIABILITY HEREIN EXCEPT TO THE EXTENT SERVICE PROVIDER IS PREJUDICED BY SUCH FAILURE, AND SERVICE PROVIDER SHALL, AT ITS SOLE EXPENSE, DEFEND, AND AT ITS SOLE DISCRETION, SETTLE ANY SUCH INDEMNIFIABLE CLAIM, PROVIDED THAT, SERVICE PROVIDER SHALL OBTAIN THE COUNTY'S CONSENT IN THE EVENT OF ANY SETTLEMENT, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD. THE COUNTY MAY PARTICIPATE IN THE DEFENSE OF ANY INDEMNIFIED CLAIM AT ITS OWN EXPENSE.

VIII.

No Waiver of Sovereign Immunity or Powers: Nothing in this Contract will be deemed to constitute a waiver of sovereign immunity or powers of The County, the Williamson County Commissioners Court, or the Williamson County Judge.

IX.

Compliance with All Laws: Service Provider agrees and will comply with any and all local, state or federal requirements with respect to the services rendered.

X.

Termination: This Contract may be terminated at any time at the option of either party, without future or prospective liability for performance upon giving seven (7) days written notice thereof. In the event of termination, The County will only be liable for its pro rata share of services rendered and goods actually received.

XI.

Venue and Applicable Law: Venue of this Contract shall be Williamson County, Texas, and the laws of the State of Texas shall govern all terms and conditions.

XII.

Severability: In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision in this Contract

and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

XIII.

Right to Audit: Service Provider agrees that The County or a mutually acceptable authorized representatives shall, until the expiration of three (3) years after final payment under this Contract, have access to and the right to examine any and all books, documents, papers and records of Service Provider which are directly pertinent to the services to be performed under this Contract for the purposes of making audits and examinations; provided, however, that: (i) The County and Service Provider shall mutually agree in advance upon the scope, timing and location of such an audit or examination; and (ii) The County shall protect the confidentiality of all confidential and proprietary information of Service Provider to which The County has access during the course of such an audit or examination. Service Provider agrees that The County shall have access during normal working hours to all necessary Service Provider facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The County shall give Service Provider reasonable advance notice of intended audits.

XIV.

Confidentiality: Service Provider expressly agrees that it will not use any incidental confidential information that may be obtained while working in a governmental setting for its own benefit, and agrees that it will not enter any unauthorized areas or access confidential information and it will not disclose any information to unauthorized third parties, and will take care to guard the security of the information at all times.

XV.

No Assignment: Neither The County nor Service Provider may assign this Contract without the other parties prior written consent. Any attempted assignment without such consent shall be null and void.

XVI.

County Judge or Presiding Officer Authorized to Sign Contract: The presiding officer of The County's governing body who is authorized to execute this instrument by order duly recorded may execute this Contract on behalf of The County.

XVII.

Limitation of Liability: To the extent authorized under Texas law, Service Provider will perform all services in accordance with applicable professional standards. In

the event of any claim(s) arising from services provided by Service Provider at any time, the total liability of Service Provider, its officers, directors, agents and employees to The County shall not exceed, in the aggregate, five million dollars (\$5,000,000). This limit applies regardless of the theory of law under which a claim is brought, including negligence, tort, contract, or otherwise. In no event shall Service Provider be liable for lost profits of The County or any other type of incidental or consequential damages. The foregoing limitations shall not apply in the event of the gross negligence, intentional fraud, or willful misconduct of Service Provider.

XVIII.

Third Party Distribution: Service Provider's work is prepared solely for the use and benefit of The County in accordance with its statutory and regulatory requirements. Service Provider recognizes that materials it delivers to The County may be public records subject to disclosure to third parties, however, Service Provider does not intend to benefit and assumes no duty or liability to any third parties who receive Service Provider's work and may include disclaimer language on its work so stating. The County agrees not to remove any such disclaimer language from Service Provider's work. To the extent that Service Provider's work is not subject to disclosure under applicable public records laws, The County agrees that it shall not disclose Service Provider's work to third parties without Service Provider's prior written consent; provided, however, that The County may distribute Service Provider's work to (i) its professional service providers who are subject to a duty of confidentiality and who agree to not use Service Provider's work for any purpose other than to provide services to The County, or (ii) any applicable regulatory or governmental agency, as required.

WITNESS that this Contract shall be effective as of the date of the last party's execution below.

WILLIAMSON COUNTY:

Authorized Signature

Printed Name

Date: _____, 2019

SERVICE PROVIDER:



Authorized Signature



Printed Name

Date: November 5, 2019