

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STANDARD WRITTEN AGREEMENT1 375-040-19
PROCUREMENT
OGC – 06/18
Page 1 of 10

Agreement No. BE897
Financial Project I.D. _____
F.E.I.D. No.: F541497463
Appropriation Bill Number(s)/Line Item Number(s) for 1st year of
contract, pursuant to s. 216.313, F.S.: _____
(required for contracts in excess of \$5 million)
Procurement No.: DOT-RFP-20-9030-GH
DMS Catalog Class No.: _____

BY THIS AGREEMENT, made and entered into on December 17, 2019 by and between the
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the "Department" and First Hospital
Laboratories, Inc. dba FSSolutions, of 100 Highpoint Drive, Suite 102 Chalfont, PA 18914 duly authorized to conduct
business in the State of Florida, hereinafter called "Vendor," hereby agree as follows:

1. SERVICES AND PERFORMANCE

- A. In connection with Third Party Administration of Federally-Mandated Drug and Alcohol Testing Services, the Department does hereby retain the Vendor to furnish certain services, information, and items as described in Exhibit "A," attached hereto and made a part hereof.
- B. Before making any additions or deletions to the work described in this Agreement, and before undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into an Amendment covering such work and compensation. Reference herein to this Agreement shall include any amendment(s).
- C. All tracings, plans, specifications, maps, computer files, and reports prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived therefrom, shall be the exclusive property of the Department without restriction or limitation on their use and shall be made available, upon request, to the Department at any time during the performance of such services and/or upon completion or termination of this Agreement. Upon delivery to the Department of said document(s), the Department shall become the custodian thereof in accordance with Chapter 119, Florida Statutes. The Vendor shall not copyright any material and products or patent any invention developed under this Agreement. The Department shall have the right to visit the site for inspection of the work and the products of the Vendor at any time.
- D. All final plans, documents, reports, studies, and other data prepared by the Vendor shall bear the professional's seal/signature, in accordance with the applicable Florida Statutes, Administrative Rules promulgated by the Department of Business and Professional Regulation, and guidelines published by the Department, in effect at the time of execution of this Agreement. In the event that changes in the statutes or rules create a conflict with the requirements of published guidelines, requirements of the statutes and rules shall take precedence.
- E. The Vendor agrees to provide project schedule progress reports in a format acceptable to the Department and at intervals established by the Department. The Department shall be entitled at all times to be advised, at its request, as to the status of work being done by the Vendor and of the details thereof. Coordination shall be maintained by the Vendor with representatives of the Department, or of other agencies interested in the project on behalf of the Department. Either party to this Agreement may request and be granted a conference.
- F. All services shall be performed by the Vendor to the satisfaction of the Director who shall decide all questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount of value thereof; and the decision upon all claims, questions, and disputes shall be final and binding upon the parties hereto. Adjustments of compensation and contract time because of any major changes in the work that may become necessary or desirable as the work progresses shall be subject to mutual agreement of the parties, and amendment(s) shall be entered into by the parties in accordance herewith.

Reference herein to the Director shall mean the
Assistant Secretary, Strategic Development

2. TERM

- A Initial Term. This Agreement shall begin on date of execution and shall remain in full force and effect through completion of all services required or 24 months, whichever occurs first. Subsequent to the execution of this Agreement by both parties, the services to be rendered by the Vendor shall commence and be completed in accordance with the option selected below. (Select box and indicate date(s) as appropriate):

☒ Services shall commence January 1, 2020 and shall be completed by December 31, 2022 or date of termination, whichever occurs first.

☐ Services shall commence upon written notice from the Department's Contract Manager and shall be completed by _____ or date of termination, whichever occurs first.

☐ Other: See Exhibit "A"

- B. RENEWALS (Select appropriate box):

☐ This Agreement may not be renewed.

☒ This Agreement may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever is longer. Renewals are contingent upon satisfactory performance evaluations by the Department and subject to the availability of funds. Costs for renewal may not be charged. Any renewal or extension must be in writing and is subject to the same terms and conditions set forth in this Agreement and any written amendments signed by the parties.

- C. EXTENSIONS. In the event that circumstances arise which make performance by the Vendor impracticable or impossible within the time allowed or which prevent a new contract from being executed, the Department, in its discretion, may grant an extension of this Agreement. Extension of this Agreement must be in writing for a period not to exceed six (6) months and is subject to the same terms and conditions set forth in this Agreement and any written amendments signed by the parties; provided the Department may, in its discretion, grant a proportional increase in the total dollar amount based on the method and rate established herein. There may be only one extension of this Agreement unless the failure to meet the criteria set forth in this Agreement for completion of this Agreement is due to events beyond the control of the Vendor.

It shall be the responsibility of the Vendor to ensure at all times that sufficient time remains in the Project Schedule within which to complete services on the project. In the event there have been delays which would affect the project completion date, the Vendor shall submit a written request to the Department which identifies the reason(s) for the delay and the amount of time related to each reason. The Department shall review the request and make a determination as to granting all or part of the requested extension.

3. COMPENSATION AND PAYMENT

- A Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes. If the Department determines that the performance of the Vendor is unsatisfactory, the Department shall notify the Vendor of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Vendor shall, within five days after notice from the Department, provide the Department with a corrective action plan describing how the Vendor will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Vendor shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the vendor resolves the deficiency. If the deficiency is subsequently resolved, the Vendor will bill the Department for the retained amount during the next billing period. If the Vendor is unable to resolve the deficiency, the

funds retained will be forfeited at the end of the agreement period.

- B. If this Agreement involves units of deliverables, then such units must be received and accepted in writing by the Contract Manager prior to payments.
- C. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.
- D. The bills for any travel expenses, when authorized by terms of this Agreement and by the Department's Project Manager, shall be submitted in accordance with Section 112.061, Florida Statutes. In addition, if compensation for travel is authorized under this Agreement and by the Department's Project Manager, then the Department shall not compensate the Vendor for lodging/hotel expenses in excess of \$150.00 per day (excluding taxes and fees). The Vendor may expend their own funds to the extent the lodging/hotel expense exceeds \$150.00 per day. The Department, in its sole discretion and pursuant to its internal policies and procedures, may approve compensation to the Vendor for lodging/hotel expenses in excess of \$150.00 per day.
- E. Vendors providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services, unless otherwise specified herein. The Department has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.
- F. If a payment is not available within forty (40) days, a separate interest penalty as established pursuant to Section 215.422, Florida Statutes, shall be due and payable, in addition to the invoice amount, to the Vendor. Interest penalties of less than one (1) dollar shall not be enforced unless the Vendor requests payment. Invoices which have to be returned to a Vendor because of Vendor preparation errors shall result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.
- G. The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system. Pursuant to Section 287.057(22), Florida Statutes, all payments shall be assessed a transaction fee of one percent (1%), which the Vendor shall pay to the State. For payments within the State accounting system (FLAIR or its successor), the transaction fee shall, when possible, be automatically deducted from payments to the Vendor. If automatic deduction is not possible, the Vendor shall pay the transaction fee pursuant to Rule 60A-1.031 (2), Florida Administrative Code. By submission of these reports and corresponding payments, Vendor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee. The Vendor shall receive a credit for any transaction fee paid by the Vendor for the purchase of any item(s) if such item(s) are returned to the Vendor through no fault, act, or omission of the Vendor. Notwithstanding the foregoing, a transaction fee is non-refundable when an item is rejected or returned, or declined, due to the Vendor's failure to perform or comply with specifications or requirements of the Agreement. Failure to comply with these requirements shall constitute grounds for declaring the Vendor in default and recovering procurement costs from the Vendor in addition to all outstanding fees. **VENDORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**
- H. A vendor ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850)413-5516.
- I. Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for three (3) years after final payment for the work pursuant to this Agreement is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred shall include the Vendor's general accounting records and the project records, together with supporting documents and records of the Vendor and all subcontractors performing work on the project, and all other records of the Vendor and subcontractors considered necessary by the Department for a proper audit of project costs.
- J. The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any

contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

4. INDEMNITY AND PAYMENT FOR CLAIMS

- A. **INDEMNITY:** To the extent permitted by Florida Law, the Vendor shall indemnify and hold harmless the Department, its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by negligence, recklessness, or intentional wrongful misconduct of the Vendor and persons employed or utilized by the Vendor in the performance of this Agreement.

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

PAYMENT FOR CLAIMS: The Vendor guaranties the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Vendor or any subcontractor, in connection with the Agreement. The Department's final acceptance and payment does not release the Vendor's bond until all such claims are paid or released.

- B. **LIABILITY INSURANCE.** (Select and complete as appropriate):

☐ No general liability insurance is required.

☒ The Vendor shall carry and keep in force during the term of this Agreement, a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with a combined bodily injury limits of at least \$500,000.00 per person and \$1,000,000.00 each occurrence, and property damage insurance of at least \$500,000 each occurrence, for the services to be rendered in accordance with this Agreement

☒ The Vendor shall have and maintain during the term of this Agreement, a professional liability insurance policy or policies or an irrevocable letter of credit established pursuant to Chapter 675 and Section 337.106, Florida Statutes, with a company or companies authorized to do business in the State of Florida, affording liability coverage for the professional services to be rendered in accordance with this Agreement in the amount of \$500,000.00.

- C. **WORKERS' COMPENSATION.** The Vendor shall also carry and keep in force Workers' Compensation insurance as required for the State of Florida under the Workers' Compensation Law.

- D. **PERFORMANCE AND PAYMENT BOND.** (Select as appropriate):

☒ No Bond is required.

☐ Prior to commencement of any services pursuant to this Agreement and at all times during the term hereof, including renewals and extensions, the Vendor will supply to the Department and keep in force a bond provided by a surety authorized to do business in the State of Florida, payable to the Department and conditioned for the prompt, faithful, and efficient performance of this Agreement according to the terms and conditions hereof and within the time periods specified herein, and for the prompt payment of all persons furnishing labor, materials, equipment, and supplies therefor.

E. CERTIFICATION.

With respect to any general liability insurance policy required pursuant to this Agreement, all such policies shall be issued by companies licensed to do business in the State of Florida. The Vendor shall provide to the Department certificates showing the required coverage to be in effect with endorsements showing the Department to be an additional insured prior to commencing any work under this Contract. Policies that include Self Insured Retention (SIR) will not be accepted. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the Department or as provided in accordance with Florida law.

5. COMPLIANCE WITH LAWS

A. The Vendor shall comply with Chapter 119, Florida Statutes. Specifically, the Vendor shall:

- (1) Keep and maintain public records required by the Department to perform the service.
- (2) Upon request from the Department's custodian of public records, provide the Department with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Vendor does not transfer the records to the Department.
- (4) Upon completion of the Agreement, transfer, at no cost, to the Department, all public records in possession of the Vendor or keep and maintain public records required by the Department to perform the service. If the Vendor transfers all public records to the Department upon completion of the Agreement, the Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Vendor keeps and maintains public records upon completion of the Agreement, the Vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Department, upon request from the Department's custodian of public records, in a format that is compatible with the information technology systems of the Department.

Failure by the Vendor to comply with Chapter 119, Florida Statutes, shall be grounds for immediate unilateral cancellation of this Agreement by the Department.

IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

Central Office

850-414-5355

COprcustodian@dot.state.fl.us

Office of the General Counsel

Florida Department of Transportation

605 Suwannee Street, MS 58

Tallahassee, Florida 32399-0458

- B. The Vendor agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise discuss or permit to be disclosed or discussed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying the Department's Contract Manager and securing prior written consent. The Vendor also agrees that it shall not publish, copyright, or patent any of the data developed under this Agreement, it being understood that such data or information are works made for hire and the property of the Department.
- C. The Vendor shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work thereof, and will not discriminate on the grounds of race, color, religion, sex, national origin, age, or disability in the performance of work under this Agreement.
- D. If the Vendor is licensed by the Department of Business and Professional Regulation to perform the services herein contracted, then Section 337.162, Florida Statutes, applies as follows:
- (1) If the Department has knowledge or reason to believe that any person has violated the provisions of state professional licensing laws or rules, it shall submit a complaint regarding the violations to the Department of Business and Professional Regulation. The complaint shall be confidential.
 - (2) Any person who is employed by the Department and who is licensed by the Department of Business and Professional Regulation and who, through the course of the person's employment, has knowledge to believe that any person has violated the provisions of state professional licensing laws or rules shall submit a complaint regarding the violations to the Department of Business and Professional Regulation. Failure to submit a complaint about the violations may be grounds for disciplinary action pursuant to Chapter 455, Florida Statutes, and the state licensing law applicable to that licensee. The complaint shall be confidential.
 - (3) Any complaints submitted to the Department of Business and Professional Regulation are confidential and exempt from Section 119.07(1), Florida Statutes, pursuant to Chapter 455, Florida Statutes, and applicable state law.
- E. The Vendor covenants and agrees that it and its employees and agents shall be bound by the standards of conduct provided in applicable law and applicable rules of the Board of Business and Professional Regulation as they relate to work performed under this Agreement. The Vendor further covenants and agrees that when a former state employee is employed by the Vendor, the Vendor shall require that strict adherence by the former state employee to Sections 112.313 and 112.3185, Florida Statutes, is a condition of employment for said former state employee. These statutes will by reference be made a part of this Agreement as though set forth in full. The Vendor agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed pursuant to this Agreement.
- F. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals, or replies on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months following the date of being placed on the convicted vendor list.
- G. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals, or replies on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity.
- H. The Department shall consider the employment by any vendor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the Vendor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this agreement.

- I. The Vendor agrees to comply with the Title VI Nondiscrimination Contract Provisions, Appendices A and E, available at <http://www.dot.state.fl.us/procurement/index.shtm>, incorporated herein by reference and made a part of this Agreement.
- J. Pursuant to Section 216.347, Florida Statutes, the vendor may not expend any State funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency.
- K. Any intellectual property developed as a result of this Agreement will belong to and be the sole property of the State. This provision will survive the termination or expiration of the Agreement.
- L. The Vendor agrees to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes.

6. TERMINATION AND DEFAULT

- A. This Agreement may be canceled by the Department in whole or in part at any time the interest of the Department requires such termination. The Department reserves the right to terminate or cancel this Agreement in the event an assignment be made for the benefit of creditors.
- B. If the Department determines that the performance of the Vendor is not satisfactory, the Department shall have the option of (a) immediately terminating the Agreement, or (b) notifying the Vendor of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (c) taking whatever action is deemed appropriate by the Department.
- C. If the Department requires termination of the Agreement for reasons other than unsatisfactory performance of the Vendor, the Department shall notify the Vendor of such termination, with instructions as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- D. If the Agreement is terminated before performance is completed, the Vendor shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the agreement price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress shall become the property of the Department and shall be turned over promptly by the Vendor.
- E. A Vendor is ineligible to enter into a contract with the Department for goods or services of any amount if, at the time of entering into such contract, the Vendor is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135, Florida Statutes, also prohibits companies from entering into a contract for goods or services of \$1 million or more that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector Lists which were created pursuant to s. 215.473, Florida Statutes. If the Department determines the Vendor submitted a false certification under Section 287.135 of the Florida Statutes, the Department shall either terminate the Contract after it has given the Vendor notice and an opportunity to demonstrate the Department's determination of false certification was in error pursuant to Section 287.135 of the Florida Statutes, or maintain the Contract if the conditions of Section 287.135 of the Florida Statutes are met.

7. ASSIGNMENT AND SUBCONTRACTS

- A. The Vendor shall maintain an adequate and competent staff so as to enable the Vendor to timely perform under this Agreement and may associate with it such subcontractors, for the purpose of its services hereunder, without additional cost to the Department, other than those costs within the limits and terms of this Agreement. The Vendor is fully responsible for satisfactory completion of all subcontracted work. The Vendor, however, shall not sublet, assign, or transfer any work under this Agreement to other than subcontractors specified in the proposal, bid, and/or Agreement without the written consent of the Department.
- B. Select the appropriate box:

- ☒ The following provision is not applicable to this Agreement:
- ☐ The following provision is hereby incorporated in and made a part of this Agreement:
- ☐ It is expressly understood and agreed that any articles that are the subject of, or required to carry out this Agreement shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section 413.036(1) and (2), Florida Statutes; and for purposes of this Agreement the person, firm, or other business entity (Vendor) carrying out the provisions of this Agreement shall be deemed to be substituted for the state agency (Department) insofar as dealings with such qualified nonprofit agency are concerned. RESPECT of Florida provides governmental agencies within the State of Florida with quality products and services produced by persons with disabilities. Available pricing, products, and delivery schedules may be obtained by contacting:

RESPECT
2475 Apalachee Pkwy
Tallahassee, Florida 32301-4946
Phone: (850)487-1471

- ☐ The following provision is hereby incorporated in and made a part of this Agreement:
It is expressly understood and agreed that any articles which are the subject of, or required to carry out this Agreement shall be purchased from the corporation identified under Chapter 946, Florida Statutes, in the same manner and under the procedures set forth in Sections 946.515(2) and (4), Florida Statutes; and for purposes of this Agreement the person, firm, or other business entity (Vendor) carrying out the provisions of this Agreement shall be deemed to be substituted for this agency (Department) insofar as dealings with such corporation are concerned. The "corporation identified" is Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE). Available pricing, products, and delivery schedules may be obtained by contacting:

PRIDE Enterprises
12425 - 28th Street, North
St. Petersburg, FL 33716-1826 (800)643-8459

- ☒ This Agreement involves the expenditure of federal funds and Section 946.515, Florida Statutes, as noted above, does not apply. However, Appendix I is applicable to all parties and is hereof made a part of this Agreement.

8. MISCELLANEOUS

- A. The Vendor and its employees, agents, representatives, or subcontractors are not employees of the Department and are not entitled to the benefits of State of Florida employees. Except to the extent expressly authorized herein, Vendor and its employees, agents, representatives, or subcontractors are not agents of the Department or the State for any purpose or authority such as to bind or represent the interests thereof, and shall not represent that it is an agent or that it is acting on the behalf of the Department or the State. The Department shall not be bound by any unauthorized acts or conduct of the Vendor or its employees, agents, representatives, or subcontractors. Vendor agrees to include this provision in all its subcontracts under this Agreement.
- B. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.
- C. This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. The State of Florida terms and conditions, whether general or specific, shall take precedence over and supersede any inconsistent or conflicting provision in any attached terms and conditions of the Vendor.

- D. It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.
- E. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- F. In any legal action related to this Agreement, instituted by either party, the Vendor hereby waives any and all privileges and rights it may have under Chapter 47 and Section 337.19, Florida Statutes, relating to venue, as it now exists or may hereafter be amended, and any and all such privileges and rights it may have under any other statute, rule, or case law, including, but not limited to those grounded on convenience. Any such legal action may be brought in the appropriate Court in the county chosen by the Department and in the event that any such legal action is filed by the Vendor, the Vendor hereby consents to the transfer of venue to the county chosen by the Department upon the Department filing a motion requesting the same.
- G. If this Agreement involves the purchase or maintenance of information technology as defined in Section 282.0041, Florida Statutes, the selected provisions of the attached Appendix II are made a part of this Agreement.
- H. If this Agreement is the result of a formal solicitation (Invitation to Bid, Request for Proposal or Invitation to Negotiate), the Department of Management Services Forms PUR1000 and PUR1001, included in the solicitation, are incorporated herein by reference and made a part of this Agreement.
- I. The Department may grant the Vendor's employees or subconsultants access to the Department's secure networks as part of the project. In the event such employees' or subconsultants' participation in the project is terminated or will be terminated, the Vendor shall notify the Department's project manager no later than the employees' or subconsultants' separation date from participation in the project or immediately upon the Vendor acquiring knowledge of such termination of employees' or subconsultants' participation in the project, whichever occurs later.
- J. Vendor/Contractor:
1. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Vendor/Contractor during the term of the contract; and
 2. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- K. Time is of the essence as to each and every obligation under this Agreement.
- L. The following attachments are incorporated and made a part of this agreement:
Ex. A, Scope of Services; Ex. B, Price Sheet; Appendix I
- M. Other Provisions:

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers on the day, month and year set forth above.

First Hospital Laboratories, Inc dba FSSolutions

Name of Vendor

DocuSigned by:
BY: Stacy Williams

AB34EC6628A2B4ED
Authorized Signature

stacy williams

(Print/Type)

Title: EVP & COO

STATE OF FLORIDA

DEPARTMENT OF TRANSPORTATION

DocuSigned by:
BY: Gerard O'Rourke On behalf of Thomas C. Byron, P.E.

164DB19A558C475...
Authorized Signature

Thomas C. Byron, P.E.

(Print/Type)

Title: Assistant Secretary, Strategic Development

FOR DEPARTMENT USE ONLY

APPROVED:

DocuSigned by:
Paul Baker

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Procurement Office

LEGAL REVIEW

DocuSigned by:
Larry Kingers

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Exhibit “A”
Scope of Services

**Third Party Administration
of Federally-Mandated
Drug and Alcohol Testing Services**



Administered by the
Florida Department of Transportation
In cooperation with the
Florida Department of Education

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Glossary of Terms and Acronyms

ATF means Alcohol Testing Form

CCDAPP means Certification Commission for Drug and Alcohol Program Professionals

CFR means Code of Federal Regulation

Collection site means a facility where a qualified individual collects a urine specimen from a donor for the purpose of a federally-mandated or employer-authorized drug test

CSAPA means Certified Substance Abuse Program Administrator

CDAPA-MC means Certified Drug and Alcohol Program Administrator-Motor Carrier

CDAPA-T means Certified Drug and Alcohol Program Administrator-Transit

DER means Designated Employer Representative

Donor means an applicant or employee donating a urine specimen that will be for the purpose of federally-mandated drug testing

DOT-qualified means a service agent who meets the qualification requirements in accordance with USDOT rule, 49 CFR Part 40, as amended.

FDOT means Florida Department of Transportation

FDOE means Florida Department of Education

FLDFWP means Florida Drug Free Workplace testing, per FL Statute 112.055

FTA means Federal Transit Administration

FMCSA means Federal Motor Carrier Safety Administration

HHS means US Department of Health and Human Services

MFR means Memorandum for Record

MRO means Medical Review Officer

NON-DOT means employer authorized, non-federal drug and alcohol tests

ODAPC means the federal Office of Drug and Alcohol Policy and Compliance

POC means Point of Contact

SAP means a DOT-qualified Substance Abuse Professional

TPA means Third Party Administrator

USDOT means United States Department of Transportation

User Agency means the individual employer entering into a purchase agreement with the TPA to purchase services in accordance with the contract terms herein

Part 1: Background and General Requirements

1.0: Contract Purpose and Description

The purpose of the following Scope of Services is to contract with a third-party administrator (TPA) to provide turn-key, comprehensive drug and alcohol testing services that will benefit USDOT-regulated transportation employers throughout the state of Florida. The USDOT-regulated employers eligible to purchase services under this contract will include two groups:

Employer Group One: Florida employers who are required to comply with Federal Transit Administration (FTA) regulations. This group of employers will include direct grantees and sub-recipients of FTA Section 5309, 5307 and 5311 funding as well as contractors providing public transportation on behalf of a direct grantee or sub-recipient, within the state of Florida.

Employer Group Two: Florida employers who are required to comply with Federal Motor Carrier Safety Administration (FMCSA) regulations. This group of employers will include student transportation providers such as county school boards and charter schools, as well as city and county governments and non-profit organizations whose employees are required to possess a commercial driver's license.

The successful proposer will provide drug and alcohol testing administrative services in accordance with this Scope of Service to the employer groups, herein referred to as "user agencies". The combined number of drug and alcohol tests conducted by user agencies on an annual basis is estimated at 12,500.

2.0: Experience, Qualifications and Technology Requirements of a Responsive Proposer

A responsive proposer will provide documentation of the following:

- A minimum of seven years of experience as a TPA of federally-compliant drug and alcohol testing programs
- A minimum of five current FTA-covered clients. FTA clients are direct grantees or sub-recipients of FTA funding and public transportation contractors operating on behalf of a direct grantee or sub-recipient agency.
- A minimum of five current FMCSA-covered clients.
- A minimum of two company officials who currently hold a valid certification from the Certification Commission for Drug and Alcohol Program Professionals as a CSAPA, CDAPA-MC or CDAPA-T
- A designated point of contact with a minimum of three years of experience in the administration of federal testing programs and comprehensive knowledge of FTA and FMCSA regulations
- Ability to establish an individual laboratory testing account for each user agency.

- Ability to prepare individual purchase agreements with each user agency
- Ability to provide DOT-qualified service agents throughout the state of Florida that meet the terms of this Scope of Services.
- Ability to provide employer authorized drug and alcohol testing as a user agency option
- Technology requirements:
 - a. After-hour contact procedures that include a response time of no greater than 30-minutes for a user agency's post-accident and reasonable suspicion testing needs
 - b. Secure electronic mail communication
 - c. Company website that meets the following standards:
 - i. Provides user agencies with secure, password-protected access to drug test results and statistical reports as described within the Scope of Services.
 - ii. Provides contract administrator or designated representative with access to user agency account data (applicable to the FTA group only)
 - iii. Servers that are able to process large volumes of data without interruption in service and are:
 1. Equipped with data encryption software
 2. Equipped with a back-up system that will retain data in accordance with record retention periods per 49 CFR Parts 40, 655 and 382

Proposers not meeting the minimum requirements for experience and qualifications and/or technology needs will be deemed no-responsive. Proposals submitted by those deemed non-responsive will not be considered.

3.0: Acceptable Examples of Experience, Qualifications and Technology Requirements

The following are examples of documents that a responsive proposer may include to demonstrate experience, qualifications and technology specifications in accordance with 2.0:

- Name, address and phone number of current FTA-covered & FMCSA-covered clients
- Letters of recommendation from current, active clients that demonstrate the proposer's tenure of service
- CSAPA, CDAPA-MC and/or CDAPA-T certification documents from company officials
- Statement from HHS certified laboratories demonstrating active accounts
- Bio and resume of the point of contact to be assigned to user agencies demonstrating a minimum of three years of experience
- MRO credentials, qualifications and certifications
- Description of procedures for responding to after-hours calls within 30 minutes
- Access to company website in "trial mode"

Part II: Scope of Services

1.0: Urine Specimen Collection Services

- 1.1. The TPA must maintain a network of DOT-qualified urine specimen collectors throughout the state of Florida that are regularly and actively engaged in the business of conducting urine specimen collections for DOT-covered employers.
- 1.2. The TPA must ensure that all urine specimen collectors are trained in accordance with 49 CFR Part 40.33 and are able to conduct specimen collections in accordance with 49 CFR Part 40, as amended, and the USDOT Specimen Collection Guidelines.
- 1.3. The TPA must maintain training qualification documentation for all specimen collectors that are approved and assigned for use. The collector training qualification documentation must be provided to the user agency, a federal or state auditor, the contract administrator or a designated representative acting on behalf of the contract administrator, upon request and within two business days.
- 1.4. The TPA must approve and assign to each user agency, a minimum of two urine specimen collection facilities or mobile on-site collectors that meet the following criteria:
 - Collection sites must be located within 20 miles of the user agency's primary location.
 - Collection sites must operate a minimum of five days per week and at least eight consecutive hours per day.
 - Collection sites and mobile collectors must meet the standards for privacy and security per 49 CFR Part 40.41 and 40.43.
 - Collection sites and mobile collectors must maintain the supplies and materials necessary to complete a DOT urine specimen collection per 49 CFR Part 40.45-40.51. Urine specimen collectors must use the most current Federal Custody and Control Form for all DOT collections
 - Collectors must be willing and able to conduct direct observation collections in accordance with 49 CFR Part 40.67 throughout all hours the collection site operates and must employ a minimum of one male and one female urine specimen collector (or observer) for the purpose of conducting direct observation collections when required.
- 1.5. In the rare event that the TPA cannot provide a urine specimen collection site within the required parameters of Section 1.4, the TPA must provide an on-site mobile specimen collector at no additional charge, beyond the unit cost per test.
- 1.6. The TPA must also approve and assign to each user agency a minimum of one mobile urine specimen collection resource for emergency, after-hours testing. The mobile urine specimen collection resource must be available 24 hours per

day, seven days per week, including federal holidays. Costs associated with the use of mobile collection services must not exceed 250.00, per event. A urine collection and alcohol test performed at the same time constitutes one testing event. The TPA is not authorized to invoice the user agency for an amount greater than the mobile collector's after-hours charge, plus the unit price per test.

- 1.7 The TPA must ensure that a non-fatal flaw occurring at the point of collection is promptly corrected and a memorandum for the record (MFR) is supplied in a timely manner so as not to create a fatal flaw.
- 1.8 The TPA must address and respond in writing, to all concerns of collection site non-compliance that are raised by user agencies, the contract administrator or a designated representative. The TPA must respond to the concerned party within two business days of the initial notification and must follow these procedures:
 - I. To determine the validity of the concern raised, the TPA must review all associated testing documents to assess the collection site's compliance with 49 CFR Part 40 as amended, and the USDOT Specimen Collection Guidelines.
 - II. As applicable, the TPA must deliver corrective action requirements to violating collectors and/or collection sites within five business days of the determination of non-compliance. The TPA must provide copy of the corrective action notice to the user agency and contract administrator or designated representative.
 - III. The TPA must provide user agencies with an alternative USDOT-qualified specimen collector when a collector or collection site fails to comply with the corrective action requirements imposed by the TPA.
- 1.9 The TPA must ensure that collectors receive error correction training following all fatal flaws that result in canceled tests and must maintain documentation of error correction training.
- 1.10 The TPA must supply the contract administrator or designated representative(s) a quarterly report of all fatal flaws that includes:
 - Collector name
 - Collector address
 - Collection date
 - Specimen ID number
 - Description of fatal flaw
 - Date of error correction training
 - Name of individual conducting error correction training

2.0: Collection Site Compliance Monitoring

- 2.1 On a quarterly basis, the TPA must perform on-site compliance monitoring inspections of at least three urine collection facilities assigned to user agencies.
- 2.2 The contract administrator or designated representative will select three collection sites within a reasonable distance of one another and provide the list to the TPA within the first 10 days of each new testing quarter.
- 2.3 The contract administrator or designated representative will provide the TPA with an inspection checklist to be used to determine collector compliance with the requirements of 49 CFR Part 40, as amended, and the USDOT Specimen Collection Guidelines.
- 2.4 The TPA must submit the completed checklist report to the contract administrator or designated representative, no later than ten days after the completion of the inspection.
- 2.5 The TPA must provide any necessary error correction training to bring a collection site into compliance when a collection site is determined to be non-compliant as a result of an on-site inspection or when a state or federal audit of the collection site results in one or more areas of concern or deficiencies.
- 2.6 The TPA must provide the contract administrator or designated representative, documentation of the notice of corrective action requirement and the error correction training delivered to the collection site by the TPA.
- 2.7 The TPA must ensure that alternative DOT-qualified collectors meeting the criteria in section 1.4 of this Scope of Services are provided to user agencies when a collection site is deemed non-compliant and does not implement corrective action requirements.
- 2.8 The TPA will notify the contract administrator when the Office of Drug and Alcohol Policy and Compliance (ODAPC) has issued a Public Interest Exclusion involving any collection site or collector being utilized by a user agency and must assign an alternative qualified collection site or collector.

3.0: Urine Specimen Analysis

- 3.0 The TPA must ensure that all specimens are analyzed at a laboratory that is certified by the Department of Health and Human services under the National Laboratory Certification Program (NLCP) for testing of urine specimens collected under the authority of the Department of Transportation.
- 3.1 The TPA must ensure that documentation of laboratory certifications is provided to the user agency, a federal or state auditor, the contract administrator or a designated representative acting on behalf of the contract administrator, upon request and within two business days.

- 3.2 The TPA must ensure that the processing of incoming specimens, the analysis of specimens and the reporting of laboratory results is conducted in accordance with 49 CFR Part 40- Subpart F, as amended.
- 3.3 The TPA must ensure that at least one qualified forensic toxicologist is available upon request, to provide litigation assistance to include expert witness testimony and depositions.
- 3.4 The TPA must ensure that all Medical Review Officers assigned to review laboratory reports and verify lab confirmed results do not have, or will not enter into a relationship, partnership or affiliation with any laboratory that could create a conflict of interest or the appearance of a conflict of interest between the MRO and the laboratories.
- 3.5 The TPA must ensure that in the event of an issuance of a Public Interest Exclusion (PIE) involving a laboratory that analyzes specimens for a user agency, the contract administrator will be notified, and an alternative laboratory will be immediately assigned.

4.0: Medical Review Officer Services

- 4.1 The TPA must ensure that user agencies are provided with the services of a Medical Review Officer (MRO) who has met the qualification requirements per 49 CFR Part 40.121.
- 4.2 The TPA must ensure that all laboratory results undergo a medical review verification process that is conducted in accordance with 49 CFR Part 40 - Subpart G, as amended.
- 4.3 The TPA must ensure that MRO staff are working directly under the supervision of a qualified and certified MRO.
- 4.4 The TPA must ensure that the MRO is accessible to the donor, by means of a toll-free telephone number, a minimum of twelve hours per day; seven days per week, excluding national holidays.
- 4.5 The TPA must ensure that a MRO or MRO staff member reports verified positive, adulterated or substituted drug test results verbally to the user agency's DER on the same day, or next business day, following the MRO verification of the result and in accordance with 49 CFR Part 40.163, 165, 167.
- 4.6 The TPA must ensure that the MRO and MRO staff members implement a means of secure identification prior to communicating verified positive, adulterated or substituted drug test results to a user agency's DER, 49 CFR Part 167(b)(2).
- 4.7 The TPA must ensure that the MRO and MRO staff members are accessible to the user agency's DER to consult on topics such as a donor's shy bladder or shy lung medical evaluation, medication use, medical conditions, etc. Consultations of this type must be inclusive of the unit cost per test.

- 4.8 The TPA must ensure that Medical Review Officers address significant safety concerns regarding a donor's medication use or medical condition in accordance with 49 CFR Part 135 (e) and are available to speak with a prescribing physician up to five days following the interview with the donor.
- 4.9 The TPA must ensure that the Medical Review Officer is available to assist user agencies with expert testimony or depositions should an MRO verified result become the focus of litigation brought against a user agency. The user agency will only be responsible for reimbursing the Medical Review Officer for actual expenses incurred while performing these services.
- 4.10 The TPA must ensure that in the event of an issuance of a Public Interest Exclusion (PIE) involving an MRO whose services are assigned for use under this contract, the contract administrator will be notified, and an alternative MRO will be immediately assigned.

5.0: Result Reporting and Record Maintenance

- 5.1 The TPA must ensure that the specific urine drug test result reporting procedures are performed in accordance with the requirements of 49 CFR Part 40.163.
- 5.2 The TPA must ensure that MRO verified negative results are reported to user agencies as soon as possible following verification. Non-flawed, lab-confirmed negative urine specimens should be MRO verified and reported to the user agencies within approximately 24-48 hours of the specimen's arrival at laboratory.
- 5.3 The TPA must ensure that the MRO provides a written report following MRO verification of all results, that includes the following:
- Full name of donor (as indicated on CCF)
 - Specimen identification number
 - Donor identification number
 - Reason for testing (test type)
 - Date of the collection
 - Date MRO received copy two of the CCF
 - Result of the test
 - Date result was verified by the MRO
 - If canceled, the reason for cancelation
 - If deemed a Refusal to Test, the reason for the refusal determination
- 5.4 The TPA must ensure that user agencies are provided the option to have results reported to the user agency's primary or secondary contact in all of the following ways:
- Via a secure, password protected website
 - Via a secure and confidential electronic mail system

- 5.5 The TPA must ensure that all result reports and associated records are not released to, or cannot be accessed by, any party other than the user agency's primary or secondary contact or contract administrator, where applicable.
- 5.6 The TPA must ensure that all reasonable procedures to protect personal data from unauthorized access, misuse, alteration or disclosure by unauthorized parties are executed at all times and must include the use of data encryption software and secure servers.
- 5.7 The TPA must ensure that all hard copy testing records are maintained in a secure location that is safeguarded against theft, damage and unauthorized access.
- 5.8 The TPA must ensure that all non-negative testing records, both electronic and hard copy are maintained and are accessible to user agencies, for a minimum of five years from date of collection.
- 5.9 The TPA must ensure that all negative testing records, both electronic and hard copy are maintained and are accessible to user agencies, for a minimum of three years from date of collection.

6.0: Alcohol Testing Services

- 6.1 The TPA must establish and maintain a network of USDOT-qualified Screening Test Technicians (STT) and Breath Alcohol Technicians (BAT) throughout the state of Florida that are regularly and actively engaged in the business of conducting alcohol tests for DOT-covered employers. Alcohol testing must be conducted in accordance with 49 CFR Part 40, as amended.
- 6.2 The TPA must approve and assign each user agency, a minimum of two alcohol-testing sites that meet, at a minimum, the following criteria:
 - Alcohol testing sites must be located within 20 miles of the user agency's primary location or account address.
 - Alcohol testing sites must operate a minimum of five days per week and at least eight consecutive hours per day.
 - Alcohol testing sites must be equipped to conduct DOT alcohol screening tests and confirmatory testing on site.
 - Alcohol test technicians must utilize approved devices that are listed on the National Highway Traffic Safety Administration's conforming products list found on the ODAPC website.
 - Breath Alcohol Technicians must ensure that routine calibration and maintenance of the Evidentiary Breath Testing devices is performed per manufacturer's instructions and demonstrate upon request that such calibration and maintenance was performed through documentation.
 - Technicians must utilize the US Department of Transportation Alcohol Testing Form, as amended.

- 6.3 In the rare event that the TPA cannot provide a local STT or BAT within the required parameters of Section 6.2, the TPA must provide on-site mobile collection services to the user agency at no additional charge, beyond the unit cost per test.
- 6.4 The TPA must also approve and assign each user agency a minimum of one mobile alcohol test technician that is equipped with an evidential breath testing device for the purpose of conducting both screening and confirmatory DOT alcohol tests. A mobile alcohol test technician must be available 24 hours per day, seven days per week, including federal holidays. Costs associated with use of mobile alcohol testing services must not exceed 250.00, per event. Alcohol tests performed at the same time as a urine collection constitute one testing event. The TPA is not authorized to invoice the user agency for an amount greater than the mobile technician's after-hours charge, plus the unit price per test.
- 6.5 The TPA must maintain training qualification documentation for all alcohol test technicians that are approved and assigned for use. The training qualification documentation must be provided to the user agency, a federal or state auditor, the contract administrator or a designated representative acting on behalf of the contract administrator upon request.
- 6.6 The TPA must ensure that alcohol test technicians maintain documentation of testing and all pertinent maintenance records, in accordance with 49 CFR Part 40, as amended.
- 6.7 The TPA must obtain, from the alcohol test technician, documentation of all completed alcohol tests for the purpose of maintaining accurate testing records and statistical reports for each user agency.

7.0. Random Testing Program Management

- 7.1 The TPA must generate random selections in accordance with the user agency's applicable DOT agency rule (FTA or FMCSA) and at the appropriate rate to ensure that minimum annual random testing percentages are met.
- 7.2 The TPA must use a scientifically valid method of determining the randomly selected employees. All covered employees must have an equal chance of being selected each time a draw is made, in accordance with 49 CFR Part 655.45 and 382.305. The TPA must not generate "alternate" or "replacement" selections within the testing period. All alternate selections must be included on the user agency's selection list, per testing period.
- 7.3 The TPA must provide instruction to user agencies to facilitate the submission of each user agency's list of safety-sensitive employees to be included in the random testing program.

- 7.4 The TPA must allow for the submission of updated employee lists up to ten days prior to the first day of a new testing period. If the user agency has not submitted an updated list of current safety-sensitive employees ten days prior to a new testing period, the TPA must generate selections using the employee database on record from the previous testing period.
- 7.5 The TPA must prepare and deliver random selections to each user agency's primary or secondary contact within the first three business days of the new testing period by means of a secure and password protected website, secure electronic mail, or secure fax; whichever is the user agency's preferred method.
- 7.6 The TPA must ensure that the transmission of the random selection lists to the user agency's primary or secondary contact must be conducted in a manner which will provide documentation of user agency's receipt of the selection list to include the date and time the list was transmitted and received by the user agency.
- 7.7 In the event that the user agency's primary or secondary contact is a safety-sensitive employee whose name appears on the random selection list, the TPA must ensure that the transmission of the list is conducted at an appropriate time of day to allow for the recipient to proceed immediately for testing, in accordance with applicable regulations.
- 7.8 The TPA must provide, upon request by the contract administrator, or a designated representative, the random testing selection lists for previous testing periods, for the purpose of compliance monitoring.

8.0: Electronic Records Access

- 8.1 The TPA must provide and maintain a secure and password-protected, searchable web-based database from which user agencies may access their testing data and results by the following parameters:
- Reason for test
 - Testing authority (FTA/FMCSA)
 - Specimen Type (Breath/Urine)
 - Specimen collection Date
 - MRO-verified Test Result
 - Specimen ID
 - Donor ID
 - List of all testing conducted during a 12-month period
- 8.2 The TPA must provide access to the electronic database as described in 8.1 to the contract administrator and designated representatives for the purpose of compliance oversight. Note: this requirement is applicable to FTA-covered user agency accounts only.

9.0: Audit Response and Support

9.1 In the event that a user agency's testing program is subject to a drug and alcohol testing program compliance audit by a state or federal authority, the TPA must lend support to the user agency to include, at a minimum, the following functions:

- Gathering and/or producing copies of testing records, custody and control forms, alcohol testing forms, memorandums, result certificates, service provider qualifications, statistical reports, and all other documents requested by auditors for the purpose of evaluating compliance to drug and alcohol testing regulations
- Cooperation and coordination in responding to state and federal audit questionnaires directed at TPA approved and assigned collection sites and/or mobile collectors
- Cooperation and coordination in responding to state and federal audit questionnaires directed at the TPA
- Cooperation and coordination in responding to state and federal audit questionnaires directed at the Medical Review Officer
- Cooperation and coordination in responding to state and federal audit questionnaires directed at the laboratories used to analyze urine specimens
- Assistance in developing corrective action plans and responses to negative audit findings that are related to any of the services provided as part of this Scope of Services.

10.0: Substance Abuse Professional Referrals

- 10.1 The TPA must maintain a database of DOT-qualified Substance Abuse Professionals (SAP) to include their name, address and service locations within the state of Florida.
- 10.2 The TPA must provide a list of at least two qualified professionals located within 50 miles of the user agency's primary location, upon user agency request.

11.0: Florida Drug Free Workplace Testing Services

- 11.1 The TPA must be able to provide, as a user agency option, drug and alcohol testing in accordance with Florida Statutes, Chapter 59A-24 and 112.0455-known as Florida Drug Free Workplace Testing. *NOTE: A unit cost will not be required for this optional service. Pricing must be negotiated with user agencies as part of the individual purchase agreement.*

12.0: Employer Authorized (NON-DOT) Testing Services

- 12.1 The TPA must be able to provide, as a user agency option, employer authorized NON-DOT urine drug testing that mirrors the testing procedures of 49 CFR Part 40, as amended. *NOTE: A unit cost will not be required for the optional service. Pricing must be negotiated with user agencies as part of the individual purchase agreement.*

13.0: Designated Point of Contact

- 13.1 In order to facilitate familiarity with each user agency's DER and specific testing needs, the TPA must assign a point of contact (POC) to the user agency accounts. The TPA may assign a single POC per employer group. For example, one POC for FMCSA-covered employers and one POC for FTA-covered employers.
- 13.2 The POC must be able to demonstrate comprehensive knowledge of federally-mandated drug and alcohol testing regulations and be able to provide accurate technical assistance and regulatory guidance to user agencies.
- 13.3 The POC must be available to provide user agency DERs with training related to the use of the TPA's result reporting system, submittal of random pool updates and other tools used in the administration of the testing program.
- 13.4 The point of contact assigned to FTA-covered employers must attend the free FTA Drug and Alcohol Program National Conference or a free FTA One-Day Regional Seminar, at least once, during the contract period.

14.0: Invoicing Requirements

- 14.1 The TPA must establish independent billing accounts for each user agency.
- 14.2 The TPA must invoice user agencies directly for the testing the user agency has conducted on a monthly basis, in arrears.
- 14.3 The unit cost per test for a urine drug test will include the urine specimen collection, specimen analysis, medical review and result reporting as well as all administrative functions as described within the Scope of Services.
- 14.4 The unit cost per test for an alcohol test will include the alcohol test technician's fee and all associated administrative functions as described within the Scope of Services
- 14.5 The invoices must include the date of collection, specimen ID number, donor ID number and test type for each test being invoiced.
- 14.6 The TPA must notify the contract administrator or a designated representative of the intention to suspend a user agency's testing account on the basis of non-payment.

15.0 Timely Payment to Service Agents

- 15.1 TPA must ensure timely payment to service agents who have provided services to user agencies under the terms of this contract. Payment for urine specimen collections must be made within sixty days of the specimen collection. Payment for alcohol testing must be made no later than sixty days after TPA receives the ATF from the technician.

EXHIBIT "B" – PRICE PROPOSAL FORMRFP Number: DOT-RFP-20-9030-GHRFP Title: TPA of Federally-Mandated Drug and Alcohol Testing Services**AS SPECIFIED IN EXHIBIT "A", SCOPE OF SERVICES****Section I: Drug Testing Services****Statewide Unit Price**1. DOT Urine Drug Testing Services as specified: \$ 35.00 / test**Section II: Alcohol Testing Services****Statewide Unit Price**1. DOT Alcohol Testing Services as specified: \$ 29.00 / test**Note:**

Employer authorized drug and alcohol testing using customized testing panels (i.e., FL Drug-Free Workplace and NON-DOT testing, and/or expanded opiates) will be negotiated separately with each user agency choosing to purchase the optional product.

RENEWAL: (see Special Condition 33).

THE UNIT PRICE(s) WILL APPLY TO THE INITIAL TERM AND ANY RENEWAL PERIODS.

NOTE: In submitting a response, the proposer acknowledges they have read and agree to the solicitation terms and conditions and their submission is made in conformance with those terms and conditions.

ACKNOWLEDGEMENT: I certify that I have read and agree to abide by all terms and conditions of this solicitation and that I am authorized to sign for the proposer. I certify that the response submitted is made in conformance with all requirements of the solicitation.

Proposer: First Hospital Laboratories, Inc.
dba FSSolutions FEID # 54-147463Address: 100 Highpoint Drive, Suite 102 City, State, Zip Chalfont, PA 18914Authorized Signature:  Date: 10/18/2019Printed / Typed: Michael Koffler Title: President & CEO

VENDOR CONTACT INFORMATIONRFP Number: DOT-RFP-20-9030-GHTitle: TPA of Federally-Mandated Drug and Alcohol Testing ServicesFEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN): 54-1497463VENDOR: First Hospital Laboratories, Inc. dba FSSolutionsADDRESS: 100 Highpoint Dr., Suite 102CITY, STATE, ZIP: Chalfont, PA 18914TELEPHONE: 215-396-5517TOLL FREE NO.: 800-732-3784 FAX NO.: 215-422-3527E-MAIL: swilliams@fssolutions.com

SERVICE INFORMATION: DIRECT QUESTIONS TO:

NAME & TITLE: Stacy Williams, EVP & CFOADDRESS: 100 Highpoint Dr., Suite 102CITY, STATE, ZIP: Chalfont, PA 18914TELEPHONE: 215-396-5517TOLL FREE NO.: 800-732-3784 FAX NO.: 215-422-3527E-MAIL ADDRESS: swilliams@fssolutions.comWEB ADDRESS: www.fssolutions.com

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

**TERMS FOR FEDERAL AID CONTRACTS (APPENDIX I):
CONTRACT (Purchase Order) # BF897**

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

- A. It is understood and agreed that all rights of the Department relating to inspection, review, approval, patents, copyrights, and audit of the work, tracing, plans, specifications, maps, data, and cost records relating to this Agreement shall also be reserved and held by authorized representatives of the United States of America.
- B. It is understood and agreed that, in order to permit federal participation, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the work to be performed hereunder without the approval of U.S.D.O.T., anything to the contrary in this Agreement notwithstanding.
- C. Compliance with Regulations: The Contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- D. Nondiscrimination: The Contractor, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- E. Solicitations for Subcontractors, including Procurements of Materials and Equipment: In all solicitations made by the Contractor, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.
- F. Information and Reports: The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- G. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
 - b. cancellation, termination or suspension of the contract, in whole or in part.
- H. Incorporation of Provisions: The Contractor shall include the provisions of paragraphs (C) through (I) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event a Contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the Contractor may request the Florida Department of Transportation to enter into such litigation to protect the interests of the Florida Department of Transportation, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- I. **Compliance with Nondiscrimination Statutes and Authorities:** Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

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The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

- J. Interest of Members of Congress: No member of or delegate to the Congress of the United States shall be admitted to any share or part of this contract or to any benefit arising there from.
- K. Interest of Public Officials: No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof. For purposes of this provision, public body shall include municipalities and other political subdivisions of States; and public corporations, boards, and commissions established under the laws of any State.
- L. Participation by Disadvantaged Business Enterprises: The Contractor shall agree to abide by the following statement from 49 CFR 26.13(b). This statement shall be included in all subsequent agreements between the Contractor and any sub-Contractor or contractor.

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

- M. It is mutually understood and agreed that the willful falsification, distortion or misrepresentation with respect to any facts related to the project(s) described in this Agreement is a violation of the Federal Law. Accordingly, United States Code, Title 18, Section 1020, is hereby incorporated by reference and made a part of this Agreement.
- N. It is understood and agreed that if the Contractor at any time learns that the certification it provided the Department in compliance with 49 CFR, Section 26.51, was erroneous when submitted or has become erroneous by reason of changed circumstances, the Contractor shall provide immediate written notice to the Department. It is further agreed that the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" as set forth in 49 CFR, Section 29.510, shall be included by the Contractor in all lower tier covered transactions and in all aforementioned federal regulation.
- O. The Department hereby certifies that neither the Contractor nor the Contractor's representative has been required by the Department, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract, to
 1. employ or retain, or agree to employ or retain, any firm or person, or
 2. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

The Department further acknowledges that this agreement will be furnished to a federal agency, in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

- P. The Contractor hereby certifies that it has not:
 1. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above contractor) to solicit or secure this contract;
 2. agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this contract; or
 3. paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above contractor) any fee contribution, donation, or consideration of any kind for, or in

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connection with, procuring or carrying out the contract.

The Contractor further acknowledges that this agreement will be furnished to the State of Florida Department of Transportation and a federal agency in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

- Q. Federal-aid projects for highway construction shall comply with the Buy America provisions of 23 CFR 635.410, as amended.
- R. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of federally assisted construction contract" in 41 CFR Part 60-1.3 shall comply with the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."