

# OUTSIDE COUNSEL CONTRACT

OAG Contract No. \_\_\_\_\_

**This Agreement**, including all Addenda (the Addenda are incorporated herein by reference), is hereinafter referred to as the “Outside Counsel Contract” or “OCC.” This Outside Counsel Contract is made and entered into by and between the Office of the Attorney General of Texas (“Agency,” “Attorney General,” or “OAG”) and Cammack Law Firm, PLLC (“Outside Counsel”). The term “Parties” as used in this OCC refers to Agency and Outside Counsel. This OCC is made and entered into with reference to the following facts:

## INDUCEMENTS

**Whereas**, Agency requires the assistance of outside legal counsel in carrying out its responsibilities; and

**Whereas**, Outside Counsel desires to provide legal services to Agency, subject to the authority of the Texas Attorney General.

## AGREEMENT

**Now, therefore**, in consideration of the inducements, covenants, agreements, and conditions herein contained, the Parties agree as follows:

### **Section 1. Purpose.**

**1.1 Purpose.** The purpose of this OCC is for Outside Counsel to provide legal services to Agency, as described in Addendum A.

**1.2.1 Litigation.** OUTSIDE COUNSEL SHALL NOT REPRESENT AGENCY IN ANY LITIGATION UNLESS ADDENDUM A SPECIFICALLY AUTHORIZES LITIGATION IN A PARTICULAR MATTER.

**1.2.2 Appellate Matters.** Irrespective of any authorization to engage in litigation in this OCC, or in a writing outside of this OCC, OUTSIDE COUNSEL IS NOT AUTHORIZED TO PROCEED ON ANY APPEAL, IN ANY CAPACITY, WHETHER INTERLOCUTORY OR OTHERWISE, WHETHER AS APPELLANT, APPELLEE, RESPONDENT, APPLICANT, OR OTHERWISE, WITHOUT FIRST OBTAINING THE WRITTEN PERMISSION OF THE ATTORNEY GENERAL, FIRST ASSISTANT ATTORNEY GENERAL, OR SOLICITOR GENERAL.

**1.2.3 OAG Review of Outside Counsel Invoice and Release of Payment.** Outside Counsel invoices will be reviewed and approved by the OAG pursuant to Subsection 402.0212(b) of the Texas Government Code and Title 1, Chapter 57 of the Texas Administrative Code.

## **Section 2. OCC Term.**

This OCC shall commence on 9/3/2020, and shall terminate on 8/31/2021 (hereinafter "OCC Term"), unless terminated earlier pursuant to Section 7 of this OCC. The OCC Term may not be extended except by amendment pursuant to Section 9.12 of this OCC.

## **Section 3. Obligations of Outside Counsel.**

**3.1 Duties.** Outside Counsel shall provide professional legal services to Agency as described in Addendum A. Outside Counsel shall represent Agency with due professional care as required by applicable law and disciplinary rules.

**3.2 Staff.** Outside Counsel is expected to perform valuable services for Agency, and the method and amount or rate of compensation are specified in Section 5 and Addendum B of this OCC. Outside Counsel staff and employees are expected to perform work of a type commensurate with their professional titles. Outside Counsel agrees that any person employed or engaged by Outside Counsel and who assists in performing the services agreed to herein shall not be considered employees or agents of Agency or the State of Texas.

**3.3 Public Information and Client Communications.** Outside Counsel acknowledges that information created or exchanged in the course of representation of a governmental body may be subject to the Texas Public Information Act, Chapter 552 of the Texas Government Code, and may be subject to required disclosure in a publicly accessible format pursuant to Section 2252.907 of the Texas Government Code. Outside Counsel will exercise professional judgment and care when creating documents or other media intended to be confidential or privileged attorney-client communications that may be subject to disclosure under the Public Information Act (e.g. invoices where incidental notation may tend to reveal litigation strategies or privileged information). Outside Counsel should mark confidential or privileged attorney-client communications as confidential. This subsection shall not be interpreted to limit Outside Counsel's duty to provide full disclosure to Agency as necessary in Outside Counsel's judgment to represent Agency with due professional care or as required by applicable law or disciplinary rules.

**3.4 Status.** Pursuant to the standard of professional care owed to the Agency, Outside Counsel shall endeavor to keep Agency fully informed about all material matters relating to legal services provided under this OCC.

**3.5 Subcontracting Authority.** In the event Outside Counsel determines it is necessary or expedient to subcontract for any of the performances herein, or in support of any of those performances, Outside Counsel may enter into such subcontract(s) after obtaining express written approval from Agency. If Outside Counsel purports to enter into a subcontract without express written approval from Agency, the Parties agree that such contract shall be voidable at the option of Agency and that Outside Counsel shall have no recourse against Agency or the State of Texas for any direct or indirect costs, damages, or any other expenses related to the subcontractor. For all subcontracts entered by Outside Counsel, the Parties agree that all such subcontracts are subject to Section 4 (Liability), Subsection 5.2 (Reimbursement of Expenses),

Subsection 5.3 (Subcontractor Payments), Subsection 6.2 (Subcontractor Invoices), and Subsection 6.5 (Supporting Documents; Right-to-Audit; Inspection of Records) of this OCC. Furthermore, if Outside Counsel elects to enter into a subcontract for any legal services, then the Parties agree that Agency shall not be liable to Outside Counsel for any rates or rate ranges greater than or inconsistent with the highest rate or rate range specified in Addendum B unless prior written approval is obtained from Agency. Any subcontracted legal counsel also must comply with Subsections 5.5 (Administrative Staff/Clerks) and 9.8 (Conflict of Interest) of this OCC.

Outside Counsel agrees to comply with all state and federal laws applicable to any subcontractors, including, but not limited to, laws regarding wages, taxes, insurance, historically underutilized businesses, and workers' compensation.

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

#### **Section 4. Liability.**

**4.1 Limitation of Liability.** The Parties stipulate and agree that the State of Texas and Agency's total liability to Outside Counsel, including consideration for the full, satisfactory, and timely performance of all its duties, responsibilities, and obligations, and for reimbursement of all expenses, if any, as set forth in this OCC or other liability arising out of any performance herein shall not exceed:

**\$25,000.00 for this OCC Term.**

Outside Counsel agrees that the State of Texas and its agencies (other than Agency) shall have no liability arising out of this OCC or the services of this OCC to Outside Counsel.

**4.2 Subject to Appropriation.** The Parties acknowledge and agree that nothing in this OCC will be interpreted to create a future obligation or liability in excess of the funds currently appropriated to Agency.

#### **Section 5. Compensation/Expenses.**

**5.1 Fees to Outside Counsel.** Consistent with Title 1, Chapter 57 of the Texas Administrative Code, Agency agrees to pay Outside Counsel in consideration of full and satisfactory performance of the legal services under this OCC. Services for non-attorney timekeeper classifications listed on Addendum B, if applicable, such as paralegal, legal assistant, or patent agent, must be of a substantive legal nature in order to be reimbursable. Outside Counsel agrees to the fee schedule as described in Addendum B.

**5.2 Reimbursement of Expenses.** Agency will reimburse Outside Counsel for actual expenses incurred in the performance of the legal services described in Addendum A, if such expenses are reasonable and either necessary or advisable. Outside Counsel must provide copies

of original receipts as evidence of actual expenditures. Limitations on the amount and type of reimbursement include the following, unless otherwise agreed upon by Agency in writing, in advance, and in accordance with Agency policy and relevant law:

**5.2.1 Mileage.** Agency will reimburse Outside Counsel for reasonable and necessary travel mileage at the per mile rate posted on the Texas Mileage Guide adopted under Section 660.043 of the Texas Government Code. The Texas Mileage Guide is currently available on the Comptroller of Public Accounts's website, at: <https://fmx.cpa.state.tx.us/fm/travel/travelrates.php>.

**5.2.2 Meals.** Agency will reimburse Outside Counsel for reasonable and necessary meal expenses in accordance with the Textravel guide published by the Texas Comptroller of Public Accounts. Agency will reimburse Outside Counsel at the allowable rate provided by the Textravel guide or actual expenses, whichever is less, for each timekeeper as listed in Addendum B for each day requiring overnight travel and on the return day of travel. Agency will not reimburse Outside Counsel for the purchase of alcohol. The Textravel guide is currently available on the Comptroller of Public Accounts's website at: <https://fmx.cpa.texas.gov/fmx/travel/texttravel/rates/current.php>.

**5.2.3 Lodging.** Agency will reimburse Outside Counsel for reasonable and necessary lodging expenses. Unless otherwise agreed upon by Agency in writing in advance, Texas lodging or overnight accommodations will be reimbursed at the lesser amount of the actual expense or \$200.00 per timekeeper, as listed in Addendum B, per night. Unless otherwise agreed upon by Agency in writing in advance, out-of-Texas lodging or overnight accommodations will be reimbursed at the lesser amount of the actual expense or \$250.00 per timekeeper, as listed in Addendum B, per night.

**5.2.4 Airfare.** Airfare will be reimbursed at the lesser amount of the actual expense or the regular published rates for airfares for commercial airlines. Agency will not reimburse Outside Counsel for expenses relating to first-class airfare, which includes first- or business-class airfare or any other expense related to premium or preferred airfare benefits.

**5.2.5 Expert Services.** Subject to Agency's prior approval, Agency will reimburse Outside Counsel for the reasonable and necessary cost of expert services.

**5.2.6 Other Reimbursable Expenses.** Agency will reimburse the actual cost for other expenses if Outside Counsel provides a reasonable and sufficient explanation of the nature and purpose of the charge and the charge is reasonable and either necessary or advisable.

**5.2.7 Non-Reimbursable Expenses.** Agency expects Outside Counsel to anticipate and include routine operating expenses and disbursements as part of overhead and, therefore, part of a basic hourly rate or flat rate. Therefore, Agency will not reimburse Outside Counsel for: routine copying and printing charges; fax charges; routine postage; office supplies; telephone charges unless related to teleconferencing services; local travel (within 20-mile radius of office including mileage, parking, and tolls) not relating to overnight travel; all delivery services



performed by internal staff; electricity or other utilities; software costs or subscription fees; and internet or wireless access charges.

**5.2.8 Gratuity.** Agency will not reimburse Outside Counsel for tips or gratuities.

**5.2.9 Reimbursement for Agency Employee Expenses.** Agency will not reimburse Outside Counsel for the cost of expenses incurred by Agency employees.

**5.2.10 No Mark-up.** Outside Counsel will only be reimbursed for actual expenses. Outside Counsel shall not be reimbursed for any mark-up or other overhead costs.

**5.3 Subcontractor Payments.** Subject to Agency's prior approval, Agency will reimburse Outside Counsel for the actual, reasonable and necessary expenses relating to Outside Counsel's use of subcontractors. Outside Counsel shall be responsible for any payments and other claims due to subcontractors for work performed under this OCC. Outside Counsel, in subcontracting for any performances or in support of any of the performances specified herein (e.g., expert services, local counsel, and other services), expressly understands and agrees that Agency shall not be directly liable in any manner to Outside Counsel's subcontractor(s).

**5.4 Legal Research.** Agency may reimburse Outside Counsel for its reasonable and necessary expenses relating to legal research, including online legal research.

While Agency should be paying Outside Counsel to apply the knowledge and expertise for which it was hired, and not paying Outside Counsel to obtain that knowledge through extensive legal research, Agency understands that situations arise that justify extensive research on how best to proceed in order to achieve a desired result. Therefore, the need for extensive legal research will be addressed on a case-by-case basis by Outside Counsel and Agency.

**5.5 Administrative Staff/Clerks.** Agency will only pay for substantive legal work performed by attorneys or other qualified personnel, regardless of the job title or classification applicable to such individual. For purposes of this agreement, "substantive legal work" has the same meaning as defined by the Texas Paralegal Standards adopted by the Board of Directors of the State Bar of Texas. Agency will not pay for law clerks or interns, however classified, under any circumstances. Agency will not pay for administrative staff, such as secretarial support, librarians, case clerks, and accounting and billing clerks, for activities including but not limited to the following: overtime, file opening, file organization, docketing, and other administrative tasks; and preparation of billing, invoice review, budget preparation, and communications regarding same or any other accounting matter.

**5.6 Training.** Agency will not pay for the education or training of attorneys, paralegals, or other staff of Outside Counsel, including assigning such staff on a transient basis to an Agency matter.

## **Section 6. Invoices for Payment.**

**6.1 General.** Outside Counsel agrees to abide by the administrative rules adopted by the OAG governing the submission, review, and approval of invoices found at Title 1, Chapter 57 of the Texas Administrative Code. Outside Counsel understands and agree that no invoice shall seek reimbursement for services performed or expenses incurred in violation of the provisions of this OCC.

**6.1.1 Billing Period.** The billing period is the interval (ex. monthly) which determines the frequency Outside Counsel will submit invoices to the Agency. The billing period for this OCC is specified in Addendum B. Unless otherwise specified in Addendum B of the Contract, a billing period defined as “monthly” shall begin with the first day of the calendar month and end with the last day of the calendar month.

**6.1.2 Billable Time.** Agency will only pay for the services of individuals covered in Addendum B. All times must be billed in one-tenth hour or one-quarter hour increments, and must reflect only actual time spent. Tasks referencing correspondence and filings must describe the document received or authored. Agency expects to be billed for the actual time it takes to modify standardized forms, filings, and/or correspondence for use on the matter being billed. Agency will not reimburse Outside Counsel for the time it originally took to prepare any such standardized documents. Agency will not pay for review, execution, and processing of the OCC and submission of invoices.

**6.1.3 Submission of Invoices.** Outside Counsel must submit invoices to Agency for review within one calendar month from the end of the relevant billing period covered by the invoice. Outside Counsel must submit invoices to Agency at:

general.counsel@oag.texas.gov

OR

Attn.: General Counsel Division  
Office of the Attorney General  
Mail Code 074  
Post Office Box 12548  
Austin, Texas 78711-2548

**6.2 Subcontractor Invoices.** Subcontractor(s) shall directly invoice Outside Counsel, and Outside Counsel shall then invoice Agency for the work performed. The actual work performed by subcontractor shall be specifically identified in the invoice supported by attached documentation.

**6.3 Prompt Payment.** Payments to Outside Counsel by Agency under this OCC shall be in compliance with Chapters 2251 of the Texas Government Code and Title 34, Chapter 20, Subchapter F of the Texas Administrative Code.

## **6.4 Supporting Documents; Right-to-Audit; Inspection of Records.**

**6.4.1 Duty to Maintain Records.** Outside Counsel shall maintain adequate records to support its charges, procedures, and performances to Agency for all work related to this OCC. Outside Counsel shall also maintain such records as are deemed necessary by Agency, the State Auditor's Office, or federal auditors if federal funds are used to pay Outside Counsel, to ensure proper accounting for all costs and performances related to this OCC.

**6.4.2 Records Retention.** Outside Counsel shall retain, for a period of at least seven (7) years after the later of (1) the expiration or termination of this OCC or (2) the resolution of all issues that arise from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving this OCC, such records as are necessary to fully disclose the extent of services provided under this OCC, including but not limited to any daily activity reports, time distribution and attendance records, and other records that may show the basis of the charges made or performances delivered.

**6.4.3 Inspection of Records and Right to Audit.** Outside Counsel shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to the State of Texas' property, services performed, and charges, such as work papers, reports, books, data, files, software, records, and other supporting documents pertaining to this OCC, for purposes of inspecting, monitoring, auditing, or evaluating by Agency, the State of Texas, or their authorized representatives. Outside Counsel shall cooperate with auditors and other authorized Agency and State of Texas representatives and shall provide them with prompt access to all of such property as requested by Agency or the State of Texas.

**6.4.4 State Auditor.** In addition to and without limitation on the other audit provisions of this OCC, pursuant to Section 2262.154 of the Texas Government Code, the State Auditor's Office may conduct an audit or investigation of Outside Counsel or any other entity or person receiving funds from the State of Texas directly under this OCC or indirectly through a subcontract under this OCC. The acceptance of funds by Outside Counsel or any other entity or person directly under this OCC or indirectly through a subcontract under this OCC acts as acceptance of the authority of the State Auditor's Office, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. Under the direction of the Legislative Audit Committee, Outside Counsel or any other entity or person that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit. Outside Counsel further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Outside Counsel shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through Outside Counsel and the requirement to cooperate is included in any subcontract it awards. The State Auditor's Office shall at any time have access to and the right to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Outside Counsel related to this OCC.

## **Section 7. Termination**

**7.1 Convenience of the State.** Agency has the right to terminate this OCC, in whole or in part, without penalty, by notifying Outside Counsel in writing of such termination prior to the effective date of such termination. Such notification of termination shall state the effective date of termination. In the event of such termination, Outside Counsel shall, unless otherwise mutually agreed upon in writing, cease all services immediately, except such services that are necessary to wind-up, in a cost-effective manner, all services being provided. Subject to Section 4 of this OCC, Agency shall be liable for payments for all services performed under this OCC to the effective date of termination, plus any necessary services to cost effectively wind-up.

**7.2 Cause/Default.** In the event that Outside Counsel commits a material breach of this OCC, Agency may, upon written notice to Outside Counsel, immediately terminate all or any part of this OCC. Termination is not an exclusive remedy but will be in addition to any other rights and remedies provided in equity, by law, or under this OCC.

**7.3 Rights Upon Termination or Expiration.** Upon expiration or termination of this OCC for any reason, Outside Counsel shall, subject to Outside Counsel's professional obligations, immediately transfer to Agency all information and associated work products prepared by Outside Counsel or otherwise prepared for Agency pursuant to this OCC, in whatever form such information and work products may exist, to the extent requested by Agency. At no additional cost to Agency and in any manner Agency deems appropriate in its sole discretion, Agency is granted the unrestricted right to use, copy, modify, prepare derivative works from, publish, and distribute any component of the information, work product, or other deliverable made the subject of this OCC.

**7.4 Remedies.** Notwithstanding any exercise by Agency of its rights of early termination, Outside Counsel shall not be relieved of any liability to Agency for damages due to Agency by virtue of any breach of this OCC by Outside Counsel or for amounts otherwise due Agency by Outside Counsel.

**7.5 Termination by Outside Counsel.** Consistent with applicable rules of professional conduct, Outside Counsel may terminate this OCC upon reasonable notice for material breach by Agency.

## **Section 8. Certifications of Outside Counsel**

By agreeing to and signing this OCC, Outside Counsel hereby makes the following certifications and warranties:

**8.1 Delinquent Child Support Obligations.** Outside Counsel certifies that it is not ineligible to receive any grant, loan, or payment under this OCC pursuant to Section 231.006 of the Texas Family Code and acknowledges that this OCC may be terminated and payment may be withheld if this certification is inaccurate.

**8.2 Buy Texas.** With respect to any services purchased pursuant to this OCC, Outside Counsel represents and warrants that it will buy Texas products and materials for use in providing the services authorized herein when such products and materials are available at a comparable price and within a comparable period of time when compared to non-Texas products and materials. This subsection does not apply to Outside Counsel providing legal services located outside the State of Texas.

**8.3 Gift to Public Servant.** Outside Counsel warrants that it has not given, nor does it intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the award of this OCC.

**8.4 Franchise Tax.** By signing this OCC, Outside Counsel certifies that its Texas franchise tax payments are current, or that it is exempt from or not subject to such tax, consistent with Chapter 171 of the Texas Tax Code.

**8.5 Outside Counsel License/Conduct.** Outside Counsel certifies that each attorney performing services under this OCC is an attorney in good standing under the laws of the State of Texas or the jurisdiction where the representation occurs. Outside Counsel will notify Agency in writing within one business day of any lapse in an assigned attorney's licensed status or any final disciplinary action taken against an assigned attorney. For the Lead Counsel(s) named in Addendum B, Outside Counsel will provide documentation of good standing from the state bar or the licensing authority of the jurisdiction in which the attorney resides and is licensed. An attorney that is not licensed by the State Bar of Texas may not provide legal services and advice concerning Texas law.

**8.6 Debt to State.** Outside Counsel acknowledges and agrees that, to the extent Outside Counsel owes any debt (child support or other obligation) or delinquent taxes to the State of Texas, any payments Outside Counsel are owed under this OCC may be applied by the Comptroller of Public Accounts toward any such debt or delinquent taxes until such debt or delinquent taxes are paid in full.

**8.7 Prohibited Bids and Contracts.** Under Section 2155.004 of the Texas Government Code, Outside Counsel certifies that it is not ineligible to receive this OCC and acknowledges that this OCC may be terminated and payment withheld if this certification is inaccurate.

**8.8 Compliance with State Law Contracting Provisions.** Agency and Outside Counsel certify that this OCC is compliant, and will remain compliant, with any and all applicable laws governing contracts involving the State of Texas or its agencies, including, but not limited to, Sections 572.054 (Representation by Former Officer or Employee of Regulatory Agency Restricted; Criminal Offense), 572.069 (Certain Employment for Former State Officer or Employee Restricted), 669.003 (Contracting with Executive Head of State Agency), 2252.901 (Contracts with Former or Retired Agency Employees), 2252.908 (Disclosure of Interested Parties), and 2261.252 (Disclosure of Potential Conflicts of Interest; Certain Contracts Prohibited) of the Texas Government Code.

**8.9 Does not Boycott Israel.** Pursuant to Section 2270.002 of the Texas Government Code, Outside Counsel certifies, by executing this OCC, that Outside Counsel does not, and will not during the term of this OCC, boycott Israel. Outside Counsel further certifies that no subcontractor of Outside Counsel boycotts Israel or will boycott Israel during the term of this agreement. Outside Counsel agrees to take all necessary steps to ensure this certification remains true during the term of this OCC.

**8.10 Prohibited Companies.** Outside Counsel certifies, by executing this OCC, that neither Outside Counsel, nor any subcontractor of Outside Counsel, is a company under Texas Government Code section 2252.152 with which Agency may be prohibited from contracting. Outside Counsel agrees to take all necessary steps to ensure this certification remains true during the term of this OCC.

**8.11 Limitation on Abortion Funding.** Outside Counsel acknowledges and agrees that, under article IX, section 6.25 of the General Appropriations Act, 86th Leg., R.S. (2019), and except as provided by that Act, funds may not be distributed under this OCC to any individual or entity that: (1) performs an abortion procedure that is not reimbursable under the State of Texas' Medicaid program; (2) is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the State of Texas' Medicaid program; or (3) is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the State of Texas' Medicaid program.

## **Section 9. General Terms and Conditions**

**9.1 Independent Contractor.** Outside Counsel agrees and acknowledges that during the OCC Term, Outside Counsel and Outside Counsel's subcontractors are independent contractors of Agency or the State of Texas and are not employees of Agency or the State of Texas.

**9.1.1** Outside Counsel will be solely and entirely responsible for its acts and the acts of its agents, employees, subcontractors, and representatives in the performance of this OCC.

**9.1.2** Outside Counsel agrees and acknowledges that during the OCC Term, Outside Counsel shall be entirely responsible for the liability and payment for Outside Counsel or Outside Counsel's employees or assistants, of all taxes of whatever kind, arising out of the performances in this OCC. Other than the payments described in this OCC, Outside Counsel agrees and acknowledges that Outside Counsel or Outside Counsel's employees or assistants shall not be entitled to any State benefit on account of the services provided hereunder. AGENCY SHALL NOT BE LIABLE TO OUTSIDE COUNSEL, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION, OR ANY BENEFIT DUE TO A STATE EMPLOYEE. If Agency or the State of Texas shall nonetheless become liable for such payments or obligations, Outside Counsel shall promptly pay or reimburse Agency or the State of Texas for such liability or obligation.

**9.2 Assignment of OCC.** Outside Counsel may not assign this OCC, or assign any right or delegate any duty under this OCC, without prior written approval from Agency.

**9.3 Survival.** The obligations of Outside Counsel under the following sections and subsections shall survive the termination or expiration of this OCC: 3.3, 4, 5, 6.4, 7.1, 7.3, 7.4, 8.8, 9.7, 9.8, 9.11, and 9.13.

**9.4 Copyright/Intellectual Property.** Outside Counsel shall take reasonable measures to protect Agency from material risks of Agency liability known to Outside Counsel for any copyright or patent infringement or disclosure of trade secrets resulting from the use of any equipment, materials, information, or ideas furnished by Outside Counsel pursuant to this OCC (other than equipment, materials, information, or ideas supplied or required by Agency or its employees or other agents). Outside Counsel and Agency agree to furnish timely written notice to each other of any claim of copyright, patent, trade secret, or other intellectual property infringement arising out of services under this OCC.

**9.5 Media Releases or Pronouncements.** Outside Counsel understands that Agency does not endorse any vendor, commodity, or service. Outside Counsel, its employees, representatives, agents, or subcontractors may not participate in any media event or issue any media release, advertisement, publication, editorial, article, or public pronouncement that pertains to this OCC or the services or project to which this OCC relates or that mentions Agency without the prior written approval of Agency.

**9.6 Written Notice Delivery.** Any notice required or permitted to be given under this OCC by one party to the other party shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the recipient's address set forth in this subsection, or on the date shown on the certificate of receipt if placed in the United States mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the receiving party at the address hereinafter specified.

**9.6.1 Outside Counsel's Address.** The address for Outside Counsel for all purposes under this OCC and for all notices hereunder shall be:

Brandon Cammack  
Cammack Law Firm PLLC  
4265 San Felipe St #1100  
Houston, Texas 77027  
Phone: 713-300-9291  
Email: brandon@cammacklawfirm.com

**9.6.2 OAG's Address.** The addresses for the OAG for all purposes under this OCC, except as provided by Subsection 6.1.3, and for all notices hereunder shall be:

Office of the Attorney General  
General Counsel Division, Mail Code 074  
Post Office Box 12548  
Austin, Texas 78711-2548

## **9.7 Dispute Resolution.**

**9.7.1** The dispute resolution process provided for in Chapter 2260 of the Texas Government Code shall be used, as further described herein, by Agency and by Outside Counsel to attempt to resolve any claim for breach of this OCC made by Outside Counsel.

**9.7.2** Outside Counsel's claims for breach of this OCC that the Parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, Subchapter B, of the Government Code. To initiate the process, Outside Counsel shall submit written notice, as required by Subchapter B, to the Agency's contact with a copy to the Texas First Assistant Attorney General or his/her designee. Said notice shall specifically state that the provisions of Chapter 2260, Subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of Outside Counsel and Agency otherwise entitled to notice under this OCC. Compliance by Outside Counsel with Subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Government Code.

**9.7.3** The contested case process provided in Chapter 2260, Subchapter C, of the Texas Government Code is Outside Counsel's sole and exclusive process for seeking a remedy for any and all alleged breaches of this OCC by Agency or the State of Texas if the Parties are unable to resolve their disputes under Section 9.7.2 of this OCC.

**9.7.4** Compliance with the contested case process provided in Chapter 2260, Subchapter C, of the Texas Government Code is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practices and Remedies Code. Neither the execution of this OCC by Agency nor any other conduct of any representative of Agency relating to this OCC shall be considered a waiver of sovereign immunity.

**9.7.5** The submission, processing, and resolution of Outside Counsel's claim is governed by Title 1, Chapter 68 of the Texas Administrative Code adopted by the OAG pursuant to Chapter 2260, as currently effective, hereafter enacted, or subsequently amended, shall govern.

## **9.8 Conflict of Interest.**

**9.8.1** Neither local funds nor funds appropriated by the General Appropriations Act may be expended to pay the legal fees or expenses of Outside Counsel in representing Agency in any matter if Outside Counsel is representing a plaintiff in a proceeding seeking monetary damages from the State of Texas or any of its agencies. For these purposes, "proceedings seeking monetary damages" do not include actions for tax refunds, compensation for exercise of eminent domain authority, or reimbursement of costs of litigation and attorney's fees.

**9.8.2** Neither local funds nor funds appropriated by the General Appropriations Act may be used to pay the legal fees or expenses of Outside Counsel under this OCC if Outside Counsel



currently represents, has represented in the six months preceding this OCC, or will represent in the six months following the termination of this OCC, a client before Agency.

**9.8.3** Outside Counsel shall regularly conduct conflicts analyses on its interests and those of its clients and any subcontractor and immediately disclose, in writing, to Agency any actual or potential conflict with respect to Agency or the State of Texas.

**9.8.4** Outside Counsel has a continual and ongoing obligation to immediately notify Agency, in writing, upon discovery of any actual or potential conflict to Agency or the State of Texas.

**9.9 Taxes.** This OCC shall not be construed so as to supersede the laws of the United States or the State of Texas that accord the State of Texas, Agency, and all departments, agencies, and instrumentalities of the State of Texas exemptions from the payment(s) of all taxes of whatever kind. To the extent allowed by law, Agency will provide, upon the request of Outside Counsel during this OCC Term, all applicable tax exemption documentation.

**9.10 Signatories.** Having agreed to the terms herein, the undersigned signatories hereby represent and warrant that they have authority to enter into this OCC and are acting in their official capacities.

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

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

**9.12 Amendments.** This OCC, including addenda hereto, may be amended only upon written agreement signed by the Parties.

**9.13 Severability/Interpretation.** The fact that a particular provision in this OCC is held under any applicable law to be void or unenforceable in no way affects the validity of other provisions, and this OCC will continue to be binding on both Parties. Any provision that is held to be void or unenforceable will be interpreted by the Parties or the courts to be replaced with language that is as close as possible to the intent of the original provision so as to effectuate the

purpose of this OCC. Any ambiguous or conflicting terms shall be interpreted and construed in such a manner as to accomplish the purpose of this OCC.

**9.14 Insurance Required.** Outside Counsel will undertake reasonable efforts to obtain and maintain during this OCC Term malpractice insurance in an amount not less than \$10,000.00 or the amount specified in Section 4.1 of this OCC, whichever is more.

Further, Outside Counsel agrees to give notice to Agency in the event any amount of malpractice insurance is canceled. Outside Counsel also agrees to furnish to Agency certified copies of such insurance policies when requested. Outside Counsel agrees that no claim by Agency and the State of Texas for damages resulting from breach of Outside Counsel's duties to Agency under this OCC shall be limited to the amount of malpractice insurance maintained by Outside Counsel.

**9.15 Additional Terms.** Any additional terms agreed to by Outside Counsel and Agency shall be listed in an optional Addendum C. These terms shall not be inconsistent with or contrary to the Contract terms listed above, and nothing in Addendum C shall remove or modify terms contained in Sections 1-9. In the event of any conflict, ambiguity or inconsistency between the terms of Addendum C and Sections 1-9 of this Outside Counsel Contract, Sections 1-9 shall take precedence and control.

**9.16 Counterparts.** This OCC may be executed in multiple counterparts.

**IN WITNESS THEREOF, THE PARTIES HAVE SIGNED AND EXECUTED THIS OCC.**

**Cammack Law Firm PLLC**

**Office of the Attorney General of Texas**



By: Brandon Cammack  
4265 San Felipe St #1100  
Houston, Texas 77027  
Phone: 713-300-9291  
Email: brandon@cammacklawfirm.com

  
Attorney General or designee

# OUTSIDE COUNSEL CONTRACT

OAG Contract No. \_\_\_\_\_

## Addendum A

### Services

The Travis County District Attorney's Office referred a criminal complaint to the OAG. The District Attorney's Office requested that the OAG conduct a review of the allegations, which include complaints of potential criminal violations made by certain state and federal employees.

State law allows the OAG to provide assistance to a prosecutor's office, such as the Travis County District Attorney's Office, in the prosecution of criminal cases. *See* Tex. Gov't Code §§ 402.028(a); 41.102(b).

Outside Counsel will conduct an investigation, under the authority of the OAG, of the criminal allegations contained in the complaint referred to the OAG by the District Attorney's Office and shall prepare a report documenting any potential criminal charges that may be discovered in the course of the investigation. Notwithstanding anything to the contrary contained in this OCC, Outside Counsel shall conduct its investigation only as consistent with the complaint referred to the OAG and only as directed by the OAG. Except for Outside Counsel's duty to provide a post-investigation report, this OCC expressly excludes legal services relating to any other post-investigation activities, including, but not limited to, indictment and prosecution.

**OUTSIDE COUNSEL CONTRACT**  
**OAG Contract No. \_\_\_\_\_**

**Addendum B**  
**Rates**

Attorneys working on Agency matters, including necessary and appropriate personal appearances before the Court, as requested and authorized by Agency Counsel shall be paid according to the following terms:

**Name(s) of Lead Counsel: Brandon Cammack**

Timekeeper classification	Hourly Rate (in United States Dollars)
Brandon Cammack	\$300.00

**Billing Period.** The billing period for this OCC shall be: **Monthly**

**Travel Rate.** An attorney's travel rate may not exceed one-half of that attorney's hourly rate listed above. If no hourly rate is identified above or no travel rate(s) listed below, Outside Counsel may not charge Agency for time spent traveling on Agency matters.