

Council Chambers at City Hall  
Tuesday, June 18, 2024  
7 p.m.



William E. Dollar Municipal Building  
200 N. Fifth St.  
Garland, Texas

# GARLAND

## CITY OF GARLAND REGULAR MEETING OF THE CITY COUNCIL

The Garland City Council extends to all visitors a sincere welcome. We value your interest in our community and your participation in the meetings of this governing body. Visit [GarlandTX.gov/Council](http://GarlandTX.gov/Council) for a full list of meeting dates.

The Council Chambers at Garland City Hall is wheelchair accessible, and ADA parking is available on the street as well as in the public parking garage. Persons with disabilities who may need auxiliary aids or services must contact the City Secretary's Office at 972-205-2404 at least two working days prior to the meeting so that appropriate arrangements can be made. Braille is not available.

**NOTICE:** Pursuant to Section 551.127 of the Texas Government Code, one or more members of the City Council may attend this meeting by internet/video remote means. A quorum of the City Council, as well as the presiding officer, will be physically present at the above identified location. Members of the public that desire to make a public comment must attend the meeting in person.

### LEGISLATIVE PRAYER AND PLEDGE OF ALLEGIANCE

It is a custom and tradition of the City Council to have an invocation and recital of the Pledge of Allegiance prior to the beginning of each Regular Meeting. Members of the audience are invited but not required to participate. The decision to participate is strictly a matter of personal choice. It has no bearing on matters to be considered by the City Council and will not affect the decisions to be made during this meeting.

### MAYORAL PROCLAMATIONS, RECOGNITIONS AND ANNOUNCEMENTS

The Mayor may present proclamations, recognize attendees or accomplishments, and make announcements regarding City events or other matters of interest to citizens including but not limited to listed items. There will be no Council discussion or votes on these matters.

### CONSENT AGENDA

All items under this section are recommended for approval by a single motion of Council, without discussion. Council has had the opportunity to review each of these items at a previous Work Session, and approval of the consent agenda authorizes the City Manager or his designee to execute each item. The Mayor will announce the consent agenda and provide an opportunity for members of the audience, as well as Council, to request that any item be removed and considered separately.

1. Approve the minutes of the June 4, 2024 Regular Meeting.

2. Approve the following bids:

a. Replacement of Digger Truck for GP&L

Bid No. 0944-24

Terex

\$715,205.94

*This purchase is for a replacement Freightliner 114SD Plus Conventional Chassis with Terex General 80 Model hydraulic rotating digger derrick body.*

- b. **Engineering Design Services for Bridge Remediation Phase 1D** **Bid No. 1066-24**

**Binkley & Barfield, Inc.** **\$351,780.00**

*This request is to provide professional engineering design services for the Bridge Remediation Phase 1D project. The Texas Department of Transportation (TxDOT) provides the City with detailed inspection reports every two (2) years through their Bridge Inspection and Appraisal Program (BRINSAP).*

- c. **Replacement Ambulance Chassis for Garland Fire Department** **Bid No. 0845-24**

**Glen Polk Autoplex, Inc.** **\$370,355.00**

*This purchase is for five replacement Ambulance 2024 RAM 5500 Regular Cab Chassis for the Garland Fire Department.*

- d. **Replacement Boom Trucks for Sanitation Department** **Bid No. 1072-24**

**Freightliner of Austin** **\$519,579.04**

*This purchase is for two replacement 2025 Freightliner M2-106 Plus Chassis with Hood 7000 Grapple Brush Loader Bodies for the Sanitation Department.*

- e. **TMPA Gibbons Creek Transmission Switch Station Decommissioning Services** **Bid No. 0722-24**

**DynaGrid Construction Group, LLC** **\$4,157,350.00**

*This request is for the re-direction of drainage pipework and associated grading services at the TMPA Gibbons Creek Switch Station as part of the station decommissioning process. This is part of the approved TMPA Gibbons Creek Decommission Phase II Transmission CIP project and will be reimbursed at 100%.*

3. **A public hearing was previously conducted for the zoning case(s) below. Council approved the zoning request(s) and instructed staff to bring forth the following ordinances:**

- a. **Z 23-50 U-Haul Company of East Dallas (District 5)**

*Consider and take appropriate action on an ordinance amending the Garland Development Code of the City of Garland, Texas, by approving a Specific Use Provision for Truck/Bus Sales & Leasing/Rental Use on a 3.29-acre tract of land located at 2502, 2504, & 2550 McCree Road, providing for conditions, restrictions and regulations; providing a penalty under those provisions of Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas; providing a Notice of Conditions of Compliance Clause; providing a Savings Clause and a Severability Clause; and providing an effective date.*

4. **Abandonment of Utility Easement and Portion of Drainage and Detention Easement in Campbell Ferris Addition**

*Council is requested to approve a resolution authorizing the abandonment of Utility Easement and Portion of Drainage and Detention Easement in Campbell Ferris Addition subdivision to the current property owner, Victron Stores, L.P.*

5. **Mayor Appointments**

*Council is requested to approve and confirm the Mayor's appointments to Council Committees and outside boards.*

6. **Consider confirming Jennifer Stubbs as City Secretary**

*Judson Rex, City Manager, is seeking City Council confirmation to appoint Jennifer Stubbs as City Secretary.*

7. **Interlocal Agreement for the Transition of Garland Public Health Clinic to Dallas County Health & Human Services**

*Council is requested to consider a resolution approving the interlocal agreement between the City of Garland and Dallas County Health & Human Services allowing the transfer of Public Health Clinic operations and associated grant funding for the sustainment of public health services within the City of Garland.*

**ITEMS FOR INDIVIDUAL CONSIDERATION**

Members of the audience may provide public comment in favor, in opposition or about any of the items for individual consideration. Anyone wishing to speak must fill out a speaker card (located at the entrance to the Council Chambers) and give it to the City Secretary in advance of the respective agenda item. Speakers are grouped by agenda item and will be called in the order of the agenda. All comments and testimony are to be presented from the podium. The Mayor may impose a time limit and may provide for rebuttal.

8. **Consider the Appointment of a Mayor Pro Tem and Deputy Mayor Pro Tem**

*Council is requested to consider the election of a Mayor Pro Tem and if so desired, a Deputy Mayor Pro Tem.*

**CONSIDER APPOINTMENTS TO BOARDS AND COMMISSIONS**

Terms are usually staggered whereby at least half of the membership has previous experience. Members are appointed based on qualifications.

9. **Mayor Scott LeMay**

- Angela Harrison - Senior Citizens Advisory Board

10. **Council Member Margaret Lucht**

- Jaric Jones - Plan Commission

**CITIZEN COMMENTS**

Members of the audience wishing to address issues not on the meeting agenda may have three minutes to speak. However, according to the Texas Open Meetings Act, Council is prohibited from discussing any item not on the posted agenda.

**ADJOURN**

All Regular Meetings of the Garland City Council are broadcast live on CGTV, Time Warner Cable Channel 16 and Frontier FIOS TV 44. Meetings are rebroadcast at 9 a.m. and 7 p.m. Wednesdays - Sundays. Live streaming and on-demand videos of the meetings are also available online at GarlandTX.tv. Copies of the meetings can be purchased through the City Secretary's Office (audio CD's are \$1 each and DVD's are \$3 each).

**NOTICE:** *The City Council may recess from the open session and convene in a closed executive session if the discussion of any of the listed agenda items concerns one or more of the following matters:*

1. *Pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct. Sec. 551.071, Tex. Gov't Code.*
2. *The purchase, exchange, lease or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Sec. 551.072, Tex. Gov't Code.*
3. *A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Sec. 551.073, Tex. Gov't Code.*

4. Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Sec. 551.074, Tex. Gov't Code.
5. The deployment, or specific occasions for implementation of security personnel or devices. Sec. 551.076, Tex. Gov't Code.
6. Discussions or deliberations regarding commercial or financial information that the City has received from a business prospect that the City seeks to have to locate, stay, or expand in or near the territory of the City and with which the City is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to a business prospect of the sort described in this provision. Sec. 551.087, Tex. Gov't Code.
7. Discussions, deliberations, votes, or other final action on matters related to the City's competitive activity, including information that would, if disclosed, give advantage to competitors or prospective competitors and is reasonably related to one or more of the following categories of information:
  - generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;
  - bidding and pricing information for purchased power, generation, and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;
  - effective fuel and purchased power agreements and fuel transportation arrangements and contracts;
  - risk management information, contracts, and strategies, including fuel hedging and storage;
  - plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider; and
  - customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies. Sec. 551.086; Tex. Gov't Code; Sec. 552.133, Tex. Gov't Code]



Each year, the City Council reviews and updates its goals for the Garland community and City operations. City management uses these goals to guide operational priorities, decision-making and resource allocation.



**GARLAND  
CITY COUNCIL STAFF REPORT**

**City Council Regular Session**

**1.**

**Meeting Date:** 06/18/2024

**Title:** Minutes June 4, 2024

**Submitted By:** Tracy Allmendinger, Deputy City Secretary

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**Issue/Summary**

**Approve the minutes of the June 4, 2024, Regular Meeting**

**Background**

**Consideration / Recommendation**

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**GARLAND  
PURCHASING REPORT**

City Council Regular Session

2. a.

Meeting Date: 06/18/2024

Item Title: For one replacement Digger Truck for GP&L

Submitted By: Garth Sanich, Director of Fleet Services

Bid Number: 0944-24

**Purchase Justification:**

This purchase is for a replacement Freightliner 114SD Plus Conventional Chassis with Terex General 80 Model hydraulic rotating digger derrick body.

**Evaluation:**

The Digger Truck is available from Terex through the Sourcewell Cooperative Purchasing Contract 110421-TER. The purchase includes \$115,727.90 in unpublished options that are being provided and installed by Terex during assembly. As competitive bids were not received, a Bid Recap is not included.

**Award Recommendation:**

<i>Vendor</i>	<i>Item</i>	<i>Amount</i>
Terex	All	\$715,205.94
	<b>TOTAL:</b>	<b>\$715,205.94</b>

Basis for Award:

Cooperative Purchase

Purchase Requisition #:

51412

**Fiscal Impact**

Total Project/Account: \$2,961,905  
 Expended/Encumbered to Date (Including this Item): \$1,923,988  
 Proposed Balance: \$1,037,917  
 Account #: 444-3523-9009

**Fund/Dept/Project Description and Comments:**

Equipment Replacement Fund / Garland Power and Light

**Attachments**

Units being replaced gpl

Budget Type: Operating Budget  
 Fiscal Year: 2023-24  
 Document Location: Op. - Page 285

Budget Director Approval: Allyson Bell Steadman      Approval Date: 06/11/2024  
 Purchasing Director Approval: Gary L. Holcomb      Approval Date: 05/30/2024

<b>Units being replaced:</b>		MILES	HOURS
350-1250	2014 Freighliner M2-106 Digger Derrick Truck		3,918



**GARLAND  
PURCHASING REPORT**

**City Council Regular Session**

2. b.

**Meeting Date:** 06/18/2024

**Item Title:** Engineering Design Services for Bridge Remediation Phase 1D

**Submitted By:** Michael Polocek, Engineering Director

**Bid Number:** 1066-24

**Purchase Justification:**

This request is to provide professional engineering design services for the Bridge Remediation Phase 1D project. The Texas Department of Transportation (TxDOT) provides the City with detailed inspection reports every two (2) years through their Bridge Inspection and Appraisal Program (BRINSAP). These reports include a detailed inspection of the structural components of all the bridges located within the City of Garland. City staff reviews the inspection reports and determines which specific bridges require necessary repairs. The scope of this project includes engineering design for rehabilitation/repairs and limited construction administration for 21 bridges City staff determined were necessary, based on TxDOT's 2023 BRINSAP reports received late last fall.

**Evaluation:**

Binkley & Barfield, Inc. was selected as the Most Qualified firm for this project from RFQ 0712-23. As competitive bids were not received, a Bid Recap is not included.

**Award Recommendation:**

<i>Vendor</i>	<i>Item</i>	<i>Amount</i>
Binkley & Barfield, Inc.	All	\$351,780.00
	<b>TOTAL:</b>	<b>\$351,780.00</b>

**Basis for Award:**

Most Qualified

**Purchase Requisition #:**

51650

**Fiscal Impact**

**Total Project/Account:** \$8,712,314  
**Expended/Encumbered to Date (Including this Item):** \$7,849,191  
**Proposed Balance:** \$863,123  
**Account #:** 692-1409-1424807-7101

**Fund/Dept/Project Description and Comments:**

Drainage CIP / Bridge and Drainage Infrastructure Remediation

**Attachments**

Location Map

**Budget Type:**

CIP

**Fiscal Year:**

2023-24

**Document Location:**

CIP - Page 115

**Budget Director Approval:**

Allyson Bell Steadman

**Approval Date:**

06/10/2024

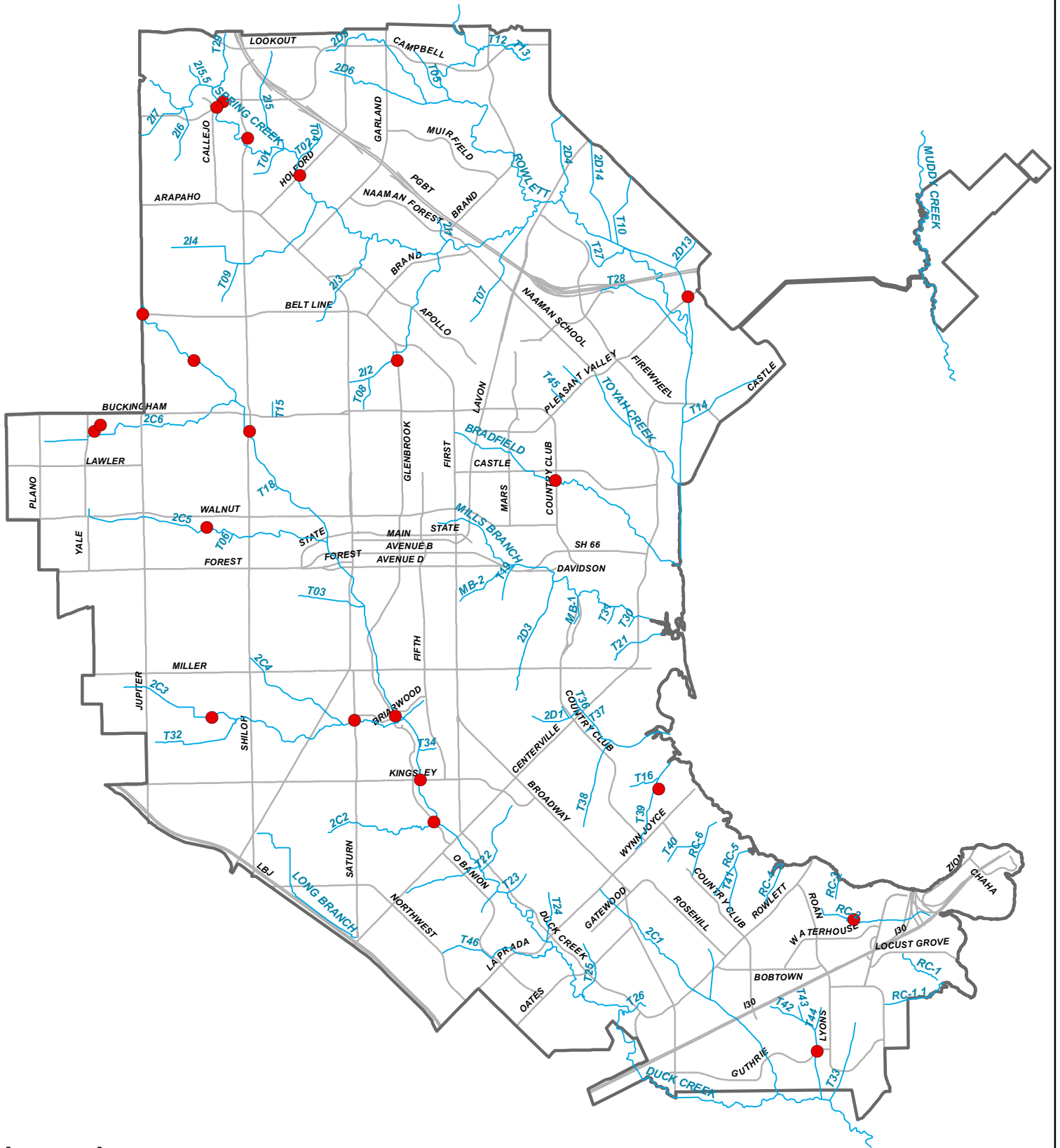
**Purchasing Director Approval:**

Gary L. Holcomb

**Approval Date:**

05/31/2024





### Legend

- Bridge Repair



## BRIDGE REMEDIATION 1D 21 LOCATIONS PROJECT 2023038

Scale: NTS  
Date: 21/5/2024  
Drawn: OS

File: BRINSAP 1C.mxd

Sheet  
1  
of  
1



Not to Scale



**GARLAND  
PURCHASING REPORT**

**City Council Regular Session**

2. c.

**Meeting Date:** 06/18/2024

**Item Title:** For five replacement Ambulance chassis for Garland Fire Department

**Submitted By:** Garth Sanich, Director of Fleet Services

**Bid Number:** 0845-24

**Purchase Justification:**

This purchase is for five replacement Ambulance 2024 RAM 5500 Regular Cab Chassis for the Garland Fire Department.

**Evaluation:**

A request for bids was issued in accordance with Purchasing procedures. Three (3) bids were received and evaluated. Sames Bastrop Ford is considered non-responsive due to not meeting specifications. Glen Polk Autoplex, Inc. is a qualified bidder, quoted all items, met all requirements of the specifications, and is recommended as the Lowest Responsible Bid.

**Award Recommendation:**

<i>Vendor</i>	<i>Item</i>	<i>Amount</i>
Glen Polk Autoplex, Inc.	All	\$370,355.00
	<b>TOTAL:</b>	<b>\$370,355.00</b>

**Basis for Award:**

Lowest Responsible Bid

**Purchase Requisition #:**

51362

**Fiscal Impact**

**Total Project/Account:** \$6,656,905  
**Expended/Encumbered to Date (Including this Item):** \$3,542,012  
**Proposed Balance:** \$3,114,893  
**Account #:** 691-1399-1210724-9009

**Fund/Dept/Project Description and Comments:**

Public Safety CIP / Ambulance Replacement

**Attachments**

Bid Recap

Units being replaced fire

**Budget Type:**

CIP

**Fiscal Year:**

2024

**Document Location:**

CIP - Page 144

**Budget Director Approval:**

Allyson Bell Steadman

**Approval Date:**

06/10/2024

**Purchasing Director Approval:**

Gary L. Holcomb

**Approval Date:**

05/30/2024



<b>Units being replaced:</b>		MILES	HOURS
130-0820	2017 Dodge Ram 3500 Ambulance		5,699
130-0821	2017 Dodge Ram 4500 Ambulance		6,791
130-0822	2017 Dodge Ram 4500 Ambulance		7,421
130-0826	2018 Dodge Ram 5500 Ambulance		7,840
130-0827	2018 Dodge Ram 5500 Ambulance		7,684



**GARLAND  
PURCHASING REPORT**

**City Council Regular Session**

2. d.

**Meeting Date:** 06/18/2024

**Item Title:** For two replacement Boom Trucks for Sanitation

**Submitted By:** Garth Sanich, Director of Fleet Services

**Bid Number:** 1072-24

**Purchase Justification:**

This purchase is for two replacement 2025 Freightliner M2-106 Plus Chassis with Hood 7000 Grapple Brush Loader Bodies for the Sanitation Department.

**Evaluation:**

The Boom Trucks are available from Freightliner of Austin through the TIPS Cooperative Purchasing Contract 230802. As competitive bids were not received, a Bid Recap is not included.

**Award Recommendation:**

<i>Vendor</i>	<i>Item</i>	<i>Amount</i>
Freightliner of Austin	All	<b>\$519,579.04</b>
	<b>TOTAL:</b>	<b>\$519,579.04</b>

**Basis for Award:**

Cooperative Purchase

**Purchase Requisition #:**

51669

**Fiscal Impact**

**Total Project/Account:**

\$2,979,759

**Expended/Encumbered to Date (Including this Item):** \$2,971,171

**Proposed Balance:**

\$8,588

**Account #:**

246-4319-2107800-9007

**Fund/Dept/Project Description and Comments:**

Miscellaneous Revenue-Supported CIP / Sanitation / Replacement of Knuckleboom Trucks

**Attachments**

Units being replaced

**Budget Type:**

CIP

**Fiscal Year:**

2024

**Document Location:**

CIP - Page 187

**Budget Director Approval:**

Allyson Bell Steadman

**Approval Date:**

06/10/2024

**Purchasing Director Approval:**

Gary L. Holcomb

**Approval Date:**

05/31/2024

<b>Units being replaced:</b>		MILES	HOURS
430-1964	2019 Freightliner M2-106 Knuckleboom		8,036
430-2223	2020 Freightliner M2-106 Knuckleboom		7,600



**GARLAND  
PURCHASING REPORT**

**City Council Regular Session**

2. e.

**Meeting Date:** 06/18/2024

**Item Title:** TMPA Gibbons Creek Transmission Switch Station Decommissioning Services

**Submitted By:** Steve Martin, GP&L Transmission  
Director

**Bid Number:** 0722-24

**Purchase Justification:**

This request is for the re-direction of drainage pipework and associated grading services at the TMPA Gibbons Creek Switch Station as part of the station decommissioning process. This is part of the approved TMPA Gibbons Creek Decommission Phase II Transmission CIP project and will be reimbursed at 100%.

**Evaluation:**

A request for bids was issued in accordance with Purchasing procedures. One (1) bid was received and evaluated based on published criteria. The quantity of bid units was reduced in order to meet budgetary constraints. DynaGrid Construction Group, LLC received the highest evaluated score, offering the Best Value for the City. As only one (1) bid was received, a Bid Recap is not included.

**Award Recommendation:**

<i>Vendor</i>	<i>Item</i>	<i>Amount</i>
DynaGrid Construction Group, LLC	All	\$4,157,350.00
	<b>TOTAL:</b>	<b>\$4,157,350.00</b>

**Basis for Award:**

Best Value

**Purchase Requisition #:**

51162

**Fiscal Impact**

**Total Project/Account:** \$5,910,000  
**Expended/Encumbered to Date (Including this Item):** \$5,561,371  
**Proposed Balance:** \$348,629  
**Account #:** 215-3542-3127801-7111

**Fund/Dept/Project Description and Comments:**  
 Electric CIP / Transmission Lines Program

**Budget Type:** CIP  
**Fiscal Year:** 2024  
**Document Location:** CIP - Page 268

**Budget Director Approval:** Allyson Bell Steadman      **Approval Date:** 06/10/2024  
**Purchasing Director Approval:** Gary L. Holcomb      **Approval Date:** 05/31/2024



**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Regular Session**

3. a.

**Meeting Date:** 06/18/2024

**Title:** Z 23-50 U-Haul Company of East Dallas (District 5)

**Submitted By:** Angela Self, Planning Administrator

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**Issue/Summary**

Zoning Ordinance Z 23-50 U-Haul Company of East Dallas

**Background**

Zoning Case Z 23-50 was approved via public hearing during the June 4, 2024 Regular City Council meeting.

**Consideration / Recommendation**

Consider adoption of the attached ordinance.

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**Attachments**

Z 23-50 Ordinance

Z 23-50 Exhibit A

Z 23-50 Exhibit B

Z 23-50 Exhibits C & D

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE GARLAND DEVELOPMENT CODE OF THE CITY OF GARLAND, TEXAS, BY APPROVING A SPECIFIC USE PROVISION FOR TRUCK/BUS SALES & LEASING/RENTAL USE ON A 3.29-ACRE TRACT OF LAND LOCATED AT 2502, 2504, & 2550 MCCREE ROAD, PROVIDING FOR CONDITIONS, RESTRICTIONS, AND REGULATIONS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A NOTICE OF CONDITIONS OF COMPLIANCE CLAUSE; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** at its regular meeting held on the 13th day of May 2024, the Plan Commission did consider and make recommendations on a certain request for a Specific Use Provision for Truck/Bus Sales & Leasing/Rental on a property zoned Industrial (IN) District and by **U-Haul Company of East Dallas**; and

**WHEREAS,** The City Council, after determining all legal requirements of notice and hearing have been met, has further determined the following amendment to the zoning laws would provide for and would be in the best interest of the health, safety, morals, and general welfare:

**Now, therefore, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS, that:**

**Section 1**

The Garland Development Code is hereby amended by approving a Specific Use Provision for Truck/Bus Sales & Leasing/Rental on a property zoned Industrial (IN) District being more particularly described in Exhibit A, attached hereto and made a part hereof.

**Section 2**

Development shall be in conformance with the conditions, restrictions, and regulations set forth in the Garland Development Code.

**Section 3**

That a violation of this Ordinance shall be a misdemeanor punishable in accordance with Section 10.05 of the Code of Ordinances, City of Garland, Texas.

**Section 4**

**NOTICE OF CONDITIONS OF COMPLIANCE:** Notwithstanding the provisions of any other ordinance of the City, the full, complete, and continuing compliance with all the conditions, restrictions, and regulations of this Ordinance is a condition to the issuance and continuation of any permit, approval, authorization or consent by the City, including without limitation the issuance or continuation of any certificate of occupancy for any building or structure located on any portion of the property described in Exhibit A. All promises, representations, obligations and undertakings made or assumed by the applicant to the City Council at any public presentation in connection with the granting of this Ordinance are hereby incorporated into and made a part of this Ordinance as if expressly set forth herein at length. No substantial deviation from any material portion of the conditions, restrictions, and regulations contained within this Ordinance are allowed except as may be provided by the City Council after a public hearing.

**Section 5**

That the Garland Development Code, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

**Section 6**

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

**Section 7**

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

FILE NO. Z 23-50

**THE CITY OF GARLAND, TEXAS**

By:

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Mayor

**ATTEST:**

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City Secretary

**Published:**

**EXHIBIT A**

**LEGAL DESCRIPTION**

**Zoning File Z 23-50**

BEING a survey of a tract of 2.000 acres of land in the W.W. Keen survey, abstract no. 740, Dallas County, Texas and being in the City of Garland, Texas, and being a portion of access reserve of all of South development, an addition to the city of garland, Dallas County, Texas, according to the plat thereof recorded in volume 73162, page 2348, map records of Dallas county, Texas; and said 2.000 acre tract being more particularly described as follows:

COMMENCING at the point of intersection of the south line of McCree Road with the northeast line of a certain 1.84-acre tract described in deed to Dallas power & light co., recorded in volume 4520, page 25, deed records of Dallas county, Texas. thence North 89 degrees 50 minutes 50 seconds east, along the south line of McCree Road, 2164.75 feet to the point of beginning of the 2.000-acre tract described herein;

THENCE North 89 degrees 50 minutes 50 seconds east, along the south line of McCree Road 207.02 feet to the northwest corner of a certain 56,560 square foot tract;

THENCE in a southerly direction, along the westerly lines of said 56,560 square foot tract, as follows: 1st. south 00 degrees 09 minutes 10 seconds east - 371.73 feet; 2nd.

ZONING FILE NUMBER Z 23-50

South 31 degrees 09 minutes 55 seconds west - 62.36 feet to a point in the north line of the all south addition.

THENCE south 89 degrees 50 minutes 50 seconds west, along said north line, 174.61 feet;

THENCE north 00 degrees 09 minutes 10 seconds west - 425.0 feet to the point of beginning and containing 2.000 acres of land.

BEING a tract of 13,001 square feet of land in the W.W. Keen survey, abstract no. 740, Dallas County, Texas and being in the city of garland, Texas; and being a portion of access reserve of all of south development, an addition to the city of garland, Dallas county, Texas, according to the plat thereof recorded in volume 73162, page 2348, map records of Dallas county, Texas; and being part of a certain 74.238 acre tract as described in probate minutes 105 -489 to the city of Dallas park board, and being a part of a conditional ingress & egress easement as per volume 73204, page 529, deed records, Dallas county, Texas; and said 13,001 square foot tract being more particularly described as follows:

COMMENCING at the point of intersection of the south line of McCree Road with the northeast line of a certain 1.84-acre tract as described in deed to Dallas power & light co., in volume 4520, page 25, deed records, Dallas county, Texas;

THENCE North 89 degrees 50 minutes east, along the south line of said McCree Road, passing the most northerly

**EXHIBIT A**

ZONING FILE NUMBER Z 23-50

northwest corner of said easement at 2341.77 feet and continuing for a total distance of 2371.77 feet to the point of beginning of the 13,001 square foot tract described herein;

THENCE North 89 degrees 50 minutes 50 seconds east, along the south line of McCree Road, 30.0 feet to the most northerly northeast corner of said easement, said point being the northwest corner of a certain 43,559 square foot tract;

THENCE South 00 degrees 09 minutes 10 seconds east, along the east line of said easement, 380.13 feet to a point in the northwest line of Garland Road;

THENCE South 31 degrees 09 minutes 55 seconds west, along the northwest line of Garland Road, 52.52 feet;

THENCE South 89 degrees 50 minutes 50 seconds west, 35.11 feet to a point in the centerline of said easement (60.0 feet wide at right angles);

THENCE northerly along the centerline of said easement as follows: 1st. north 31 degrees 09 minutes 55 seconds east, 62.36 feet, 2nd. North 00 degrees 09 minutes 10 seconds west, 371.72 feet to the point of beginning and containing 13,001 square feet of land.

BEING lot 1, block 1, of U-Haul addition to garland, an addition to the city of Garland, Dallas County, Texas, according to the plat thereof recorded in volume 82140, page 2153, map records, Dallas county, Texas.

**EXHIBIT A**

ZONING FILE NUMBER Z 23-50

the property surveyed and listed here is the same property as described in the first American title insurance company's title commitment file no. ncs-848928-phx1 with an effective date of May 4, 2017.

**EXHIBIT A**

**PLANNED DEVELOPMENT CONDITIONS**

**ZONING FILE Z 23-50**

**2502, 2504, & 2550 McCree Road**

**I. Statement of Purpose:** The purpose of this Planned Development District is to allow a Truck/Bus Sales & Leasing/Rental Use by Specific Use Provision and allow certain site and additional use conditions.

**II. Statement of Effect:** This Planned Development (PD) shall not affect any regulation found in the Garland Development Code, Ordinance No. 6773 as amended prior to adoption of this ordinance, except as specifically provided herein.

**III. General Regulations:** All regulations of the Industrial (IN) District and Chapter 2 of the Garland Development Code, Ordinance 6773, are included by reference and shall apply, except as otherwise specified by this ordinance.

**IV. Development Plans:**

A. Detail Plan: Development is to be in general conformance with the approved Detail Plan set forth in Exhibit C, Exhibit D and Exhibit E. In the event of conflict between the conditions and Detail Plan, the conditions listed below are to apply.

**V. Specific Conditions:**

A. Uses: Only Truck/Bus Sales & Leasing/Rental Use is allowed on the subject property, by Specific Use Provision approval only.

B. Site Layout and Parking: The development shall be in conformance with the site layout in Exhibit C.

C. Landscaping: Landscaping shall be in conformance with the proposed landscaping buffer and layout in Exhibit C.

D. Building Elevations: Building elevations shall be in general conformance with Exhibit D.

E. Signage: Four (4) attached signs will be allowed as per Exhibit E. The attached signage on the North facing elevation shall be allowed 100 square feet of



PD/SUP Requirements

Zoning File 23-50

Page 2

signage, the East facing elevation 200 square feet, the South facing elevation 125 square feet, and the West facing elevation 200 square feet.

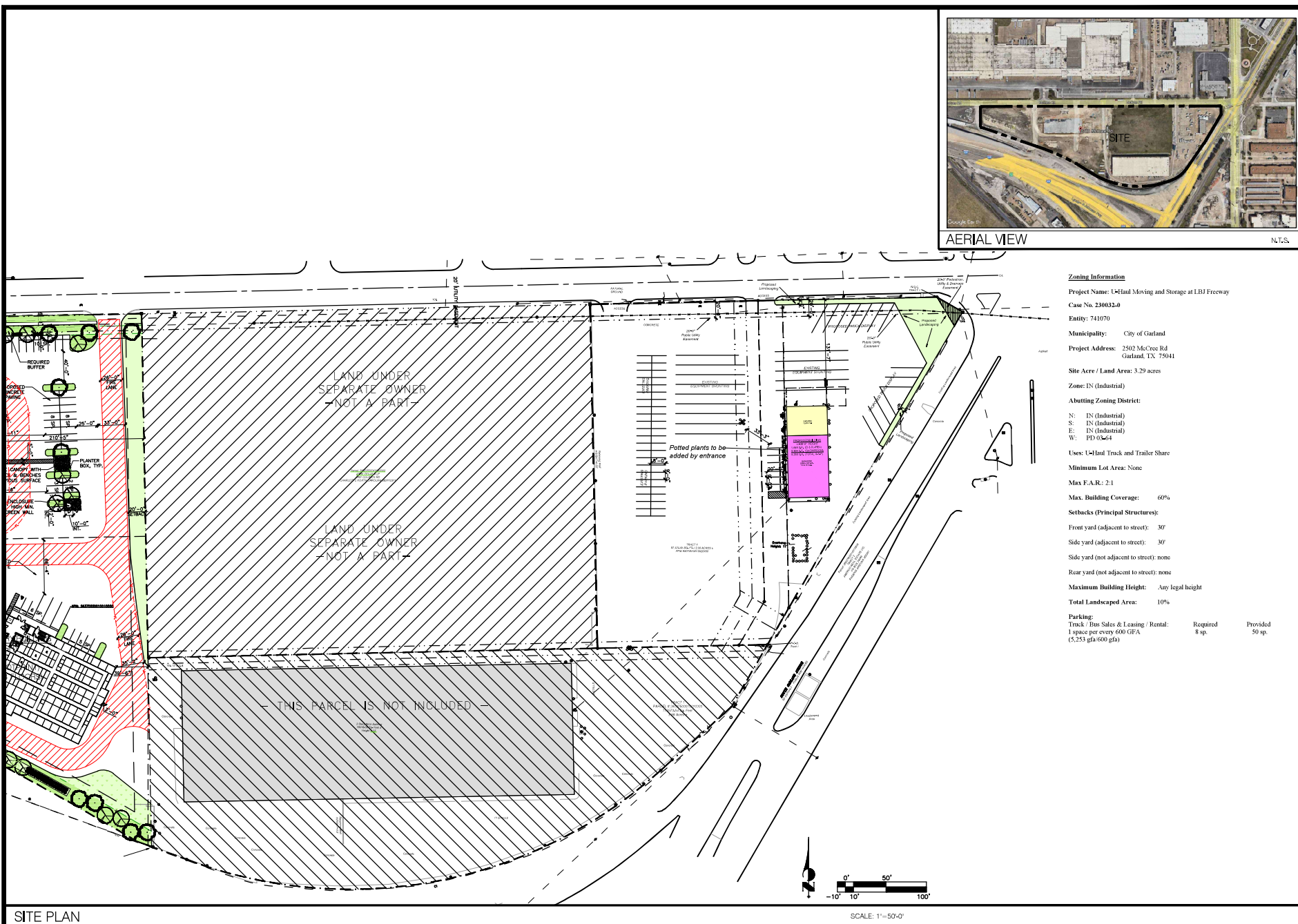
**SPECIFIC USE PROVISION CONDITIONS**

**ZONING FILE Z 23-50**

**2502, 2504, & 2550 McCree Road**

- I. Statement of Purpose:** The purpose of this Specific Use Provision is to allow a Truck/Bus Sales & Leasing/Rental Use.
- II. Statement of Effect:** This Specific Use Provision shall not affect any regulation found in the Garland Development Code, Ordinance No. 6773 as amended prior to adoption of this ordinance, except as specifically provided herein.
- VI. General Regulations:** All regulations of the Industrial (IN) District and Chapter 2 of the Garland Development Code, Ordinance 6773, are included by reference and shall apply, except as otherwise specified by this ordinance.
- VII. Specific Use Provision:**
- A. SUP Time Period: The Specific Use Provision for the Truck/Bus Sales & Leasing/Rental Use shall be in effect for a period of fifteen (15) years.
- B. Truck Display/Parking: Truck display is limited along McCree Road to six (6) truck spaces, and truck display along South Garland Avenue is limited to five (5) truck spaces, as shown in Exhibit C.

EXHIBIT C



AERIAL VIEW N.T.S.

**Zoning Information**  
 Project Name: U-Haul Moving and Storage at LBJ Freeway  
 Case No. 230032-0  
 Entity: 741070  
 Municipality: City of Garland  
 Project Address: 2502 McCree Rd  
 Garland, TX 75041  
 Site Acre / Land Area: 3.29 acres  
 Zone: IN (Industrial)  
 Abutting Zoning District:  
 N: IN (Industrial)  
 S: IN (Industrial)  
 E: IN (Industrial)  
 W: PD 03-64  
 Uses: U-Haul Truck and Trailer Share  
 Minimum Lot Area: None  
 Max F.A.R.: 2:1  
 Max. Building Coverage: 60%  
 Setbacks (Principal Structures):  
 Front yard (adjacent to street): 30'  
 Side yard (adjacent to street): 30'  
 Side yard (not adjacent to street): none  
 Rear yard (not adjacent to street): none  
 Maximum Building Height: Any legal height  
 Total Landscaped Area: 10%  
 Parking:  
 Truck / Bus Sales & Leasing / Rental: Required 8 sp. Provided 50 sp.  
 1 space per every 600 GFA (5,253 gfa/600 gfa)

GENERAL NOTES:

REVISIONS:

NO.	DATE	REVISED	BY	REVISIONS
1	03/24/24	BLC	JIS	PER CITY COMMENTS
2	06/22/24	BLC	JIS	8' TALL TRASH ENCLOSURE PER PLANNER COMMENTS
3	10/31/24	JIS	JIS	NEW OPTION - SR BLDG 'X' CONVERSION
4	12/05/24	JIS	JIS	REVS TO PROPOSED ADA BATHROOM
5	12/30/24	JIS	JIS	VEHICLE PATH OPTIONS/ EXITS FLOOR PLAN REVS
6	06/19/25	JIS	JIS	ADDITION OF PRELIM. U-BOX OPTION
7				

PROFESSIONAL SEAL:

PRELIMINARY DOCUMENTS  
 NOT FOR CONSTRUCTION  
 FOR INFORMATION ONLY

ARCHITECT LOGO:

**AMERCO REAL ESTATE COMPANY**  
 CONSTRUCTION DEPARTMENT  
 2727 NORTH CENTRAL AVENUE  
 PHOENIX, ARIZONA 85004  
 P: (602) 263-6502

SITE ADDRESS:  
 U-HAUL OF GARLAND, TX  
 2502 McCree Rd  
 GARLAND, TX 75041

SHEET CONTENTS:  
 SITE PLAN  
 EX'G UHC SITE PLAN  
 Case No. 230032-0

741070

DRAWN: JIS  
 CHECKED: JIS  
 DATE: 12/30/2022

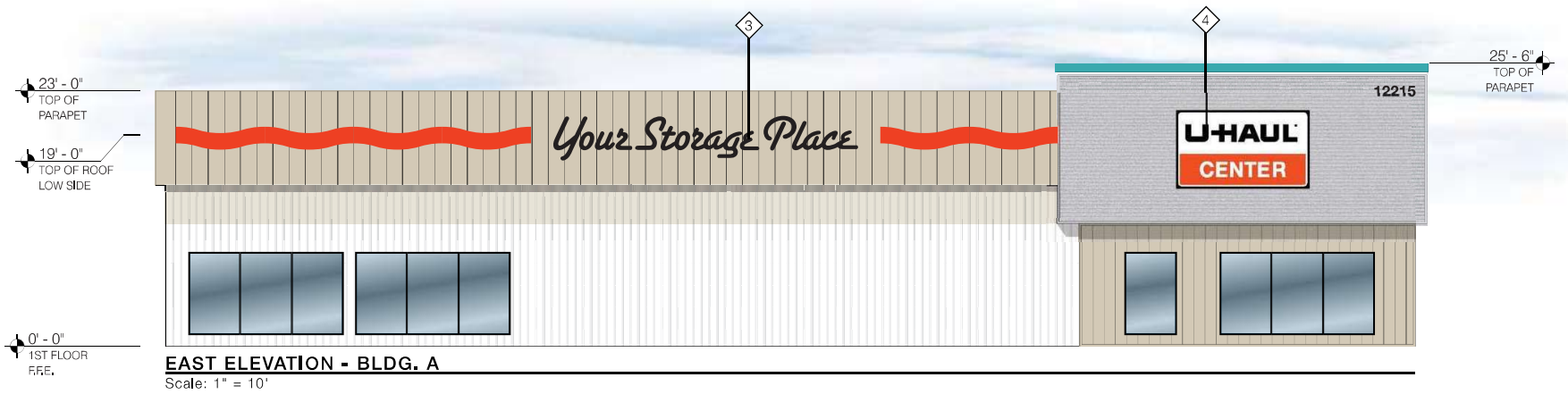
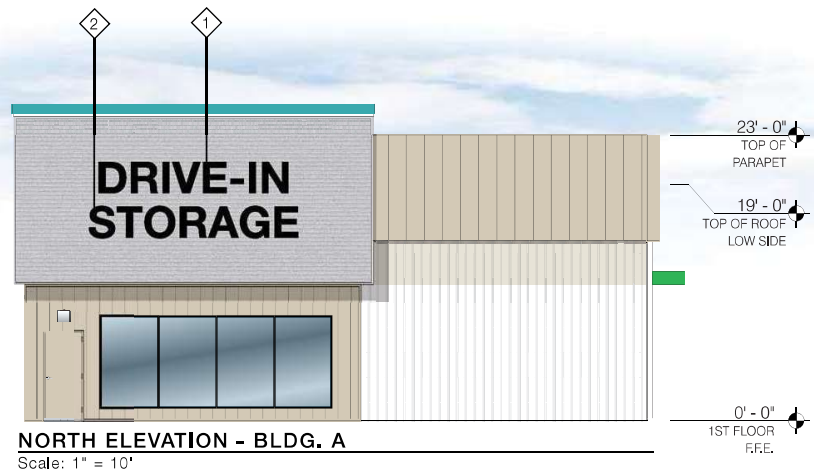
SP2

741060-741070 A1W

© 2022 AMERCO REAL ESTATE COMPANY

SITE PLAN

SCALE: 1"=50'-0"



SIGNAGE CALCULATIONS	
1	DIRECTIONAL DIMENSIONAL LETTERS 15.19"W X 2.5"H (37.95 SQFT)
2	DIRECTIONAL DIMENSIONAL LETTERS 16.77"W X 2.5"H (41.92 SQFT)
3	11 GA. STEEL BLACK POWDERCOATED 27.43"W X 4"H (109.72 SQFT)
4	ID SIGN 12"W X 7"H (84 SQFT)

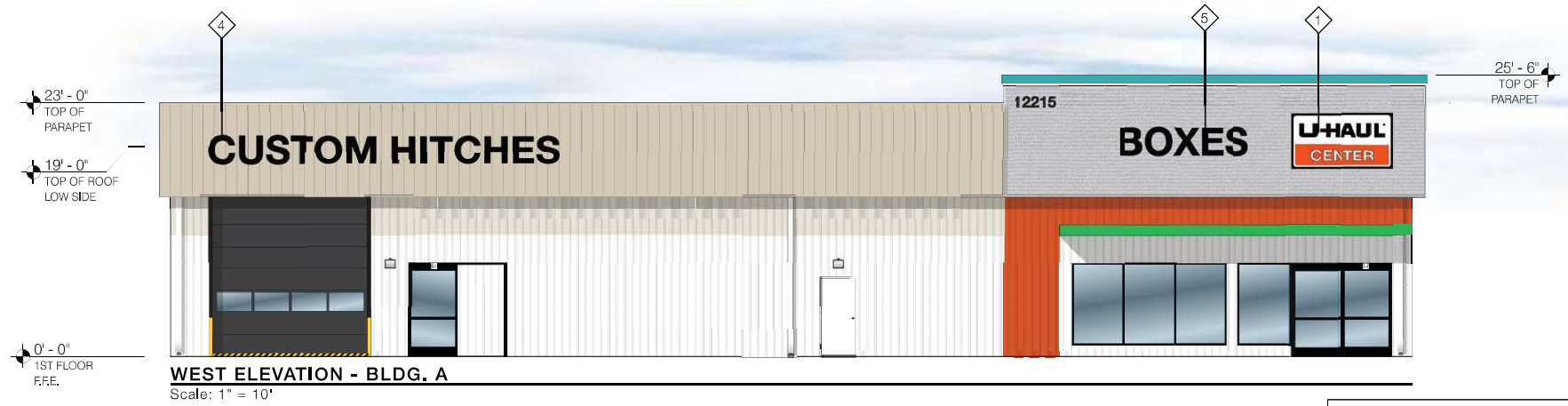
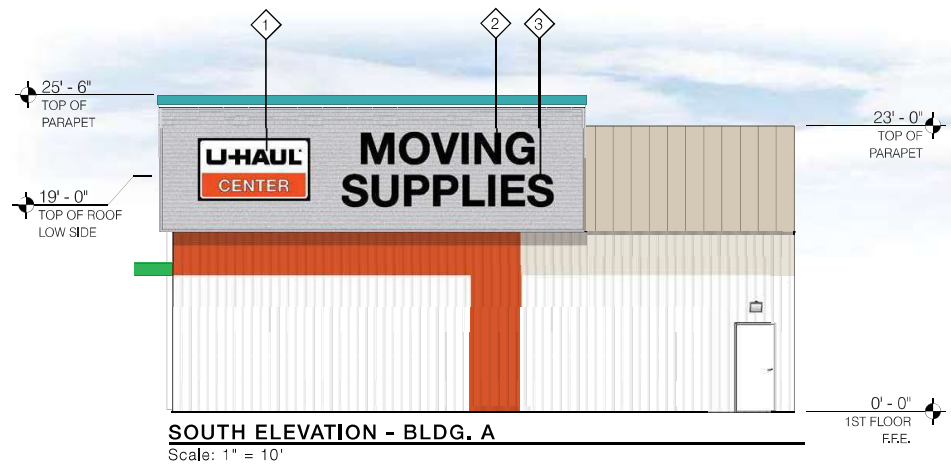
**a&m**  
A&M ASSOCIATES, INC.  
2727 N. CENTRAL AVENUE  
PHOENIX, ARIZONA 85004  
P: 602.263.6841

**U-HAUL**  
of LBJ Fwy.  
Garland, TX  
(741070)

Sign Calculations

SHEET 03

**CASE NO: 230032-0**



SIGNAGE CALCULATIONS	
1	ID SIGN 9'W X 5'H (45 SQFT)
2	DIMENSIONAL LETTERS 13.95'W X 2.5'H (34.87 SQFT)
3	DIMENSIONAL LETTERS 17.02'W X 2.5'H (42.55 SQFT)
4	DIMENSIONAL LETTERS 31.75'W X 2.5'H (79.37 SQFT)
5	DIMENSIONAL LETTERS 11.74'W X 2.5'H (29.35 SQFT)

\*TEMPORARY ART SUBJECT TO CHANGE

**CASE NO: 230032-0**

**a&m**  
A&M ASSOCIATES, INC.  
2727 N. CENTRAL AVENUE  
PHOENIX, ARIZONA 85004  
P: 602.263.6841

**U-HAUL**  
of LBJ Fwy,  
Garland, TX  
(741070)

Sign Calculations  
**SHEET 04**

EXHIBIT D



**a&m**  
 A&M ASSOCIATES, INC.  
 2727 N. CENTRAL AVENUE  
 PHOENIX, ARIZONA 85004  
 P: 602.263.6841

**CASE NO: 230032-0**

**U-HAUL**  
 of LBJ Frwy.  
 Garland, TX  
 (741070)

Northeast Elevation  
 Composite Rendering

**SHEET 01**

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EXHIBIT D



A&M ASSOCIATES, INC.

2727 N. CENTRAL AVENUE  
PHOENIX, ARIZONA 85004  
P: 602.263.6841

**CASE NO: 230032-0**



of LBJ Frwy.  
Garland, TX  
(741070)

Southwest Elevation  
Composite Rendering

**SHEET 02**

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**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Regular Session**

**4.**

**Meeting Date:** 06/18/2024  
**Title:** Abandonment of Utility Easement and Portion of Drainage and Detention Easement in Campbell Ferris Addition  
**Submitted By:** Michael Polocek, Engineering Director  
**Strategic Focus Area:** Well-Maintained City Infrastructure  
Safe Community  
Sound Governance and Finances

---

**Issue/Summary**

Consider the abandonment of a Utility Easement and a portion of a Drainage and Detention Easement in the Campbell Ferris Addition subdivision.

**Background**

Victron Stores, L.P. is currently in the process of redeveloping the site for a convenience store and fuel station use; however, constraints created by some of the existing easements have limited the developer's ability to fully utilize their lot under the current Code. Therefore, the easements need to be abandoned to accommodate the proposed convenience store and fuel pump canopy that will be constructed as a part of the redevelopment.

In consideration, the developer will dedicate new easements to serve the same purposes at different locations on the lot. The Engineering Department recommends abandoning the Utility Easement and a portion of the Drainage and Detention Easement to the current property owner, Victron Stores, L.P.

Council considered this item at the June 3, 2024 Work Session.

**Consideration / Recommendation**

Recommend Council approve the Resolution authorizing the Mayor to execute the abandonment of a Utility Easement and a portion of a Drainage and Detention Easement.

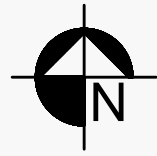
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**Attachments**

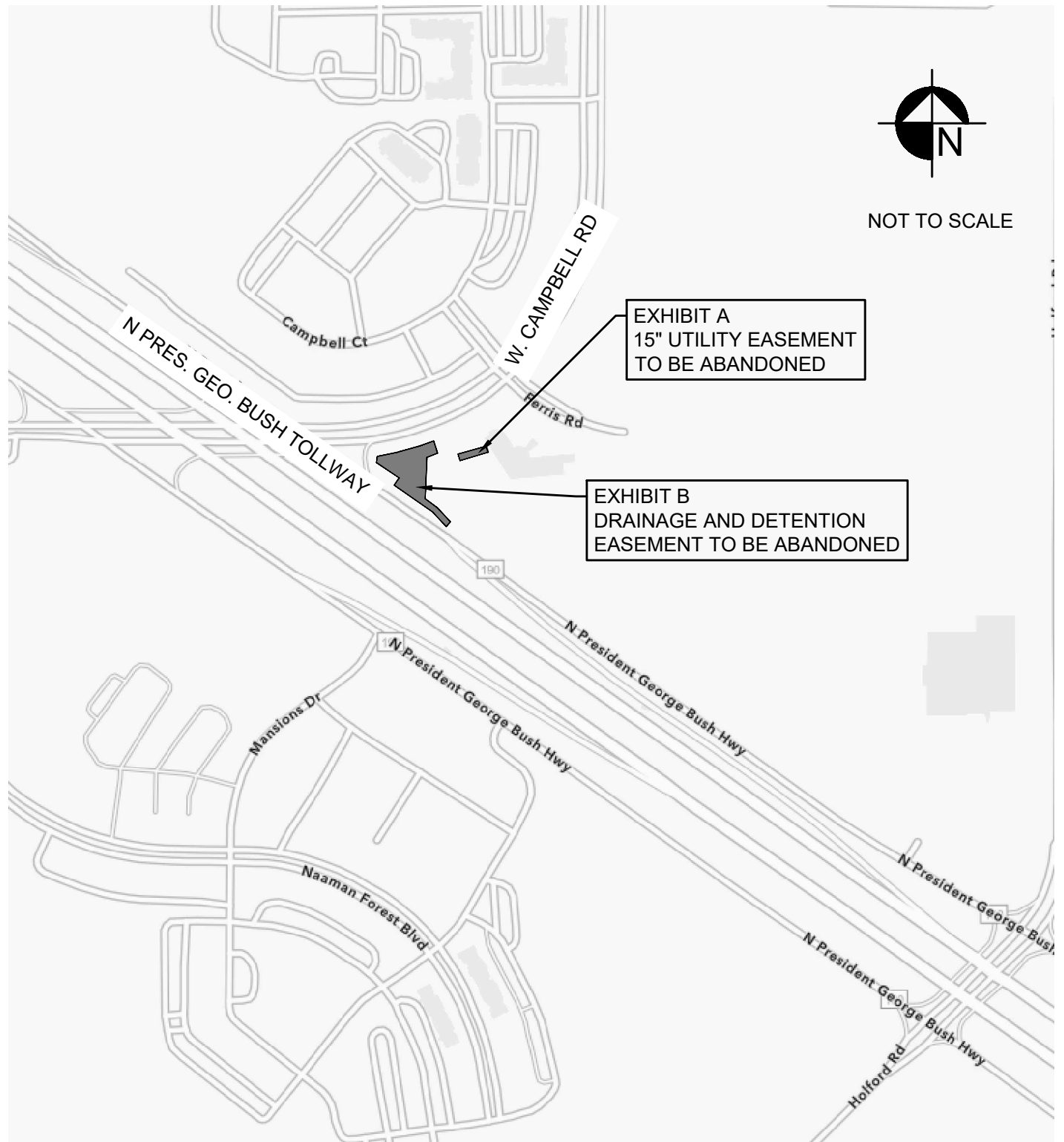
Location Map  
Resolution

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NOT TO SCALE



## EASEMENT ABANDONMENT

GARLAND C-STORE  
GARLAND, TEXAS

# FLANAGAN

Fort Worth, Texas | P:817.704.0480 | [flanagan-ls.com](http://flanagan-ls.com) | TBPE Firm No. 22910  
Contact: Reece Flanagan, P.E.

Sheet 1 of 1

Date 5/15/2024

**RESOLUTION NO.**

**A RESOLUTION APPROVING THE ABANDONMENT, RELEASE, AND CONVEYANCE OF A UTILITY EASEMENT AND A PORTION OF A DRAINAGE AND DETENTION EASEMENT; AUTHORIZING THE MAYOR OF THE CITY OF GARLAND TO EXECUTE A DEED CONVEYING THE EASEMENTS TO VICTRON STORES, L.P.; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City is the owner of a Utility Easement recorded in Volume 2001199, Page 5325, and a portion of a Drainage and Detention Easement recorded in Volume 2001199, Page 5329, Official Public Records of Dallas County, Texas and more particularly described and depicted in Exhibits "A" and "B" respectively, attached hereto and incorporated herein by reference ("Easements");

**WHEREAS**, the City has determined that the Easements are no longer needed for public use and should be abandoned and conveyed to the property owner, Victron Stores, L.P., a Texas limited partnership("Grantee");

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:**

**Section 1**

That the abandonment and conveyance of the Easements by the City of Garland to the Grantee is hereby approved.

**Section 2**

That the Mayor is hereby authorized to execute a Deed Without Warranty, the form and substance of which is attached as Exhibit "A" and incorporated herein by reference, conveying the Easements to the Grantee.

**Section 3**

That this Resolution shall be and become effective immediately upon and after its adoption and approval.

**PASSED AND APPROVED** this the 18<sup>th</sup> day of June, 2024.

**CITY OF GARLAND, TEXAS**

By: \_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Secretary



**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Regular Session**

5.

**Meeting Date:** 06/18/2024

**Title:** Mayor Appointments to Council Committees and Outside Boards

**Submitted By:** Courtney Vanover, Department Coordinator II

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**Issue/Summary**

The City Council may accept or disapprove the Mayor's nominations to Council committees and outside boards.

**Background**

**Consideration / Recommendation**

Council will vote to approve or deny the Mayor's appointments.

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**Attachments**

Mayor Appointments to Council Committees and Outside Boards

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**Council Committees 2024-25**

<b>Audit</b>		
	Chair	Moore
	Member	Williams
	Member	Ott
<b>Administrative Services</b>		
	Chair	Lucht
	Member	Hedrick
	Member	Moore
<b>Community Services</b>		
	Chair	Bass
	Member	Dutton
	Member	Beard
<b>Development Services</b>		
	Chair	Hedrick
	Member	Bass
	Member	Lucht
<b>Public Safety</b>		
	Chair	Dutton
	Member	Williams
	Member	Beard
<b>Transportation/Streets</b>		
	Chair	Ott
	Member	Hedrick
	Member	Dutton
<b>Intragovernmental Affairs</b>		
	Chair	Williams
	Member	Bass
	Member	Ott
<b>NCTCOG</b>		
	General Assembly Member	Bass
<b>NCTCOG EPPC</b>		
	Board Member	Ott
<b>DRMC</b>		
	Board Member	Moore
	Alternate	Williams
<b>RTC</b>		
	Board Member	Moore
	Alternate	Williams



**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Regular Session**

6.

**Meeting Date:** 06/18/2024  
**Title:** Consider confirming Jennifer Stubbs as City Secretary  
**Submitted By:** Phillip Urrutia, Assistant City Manager  
**Strategic Focus Area:** Customer-Focused City Services

---

**Issue/Summary**

Introduction of Jennifer Stubbs, City Secretary Finalist.

**Background**

City Council will be asked to confirm the appointment of Jennifer Stubbs to the City Secretary position at the June 18th, 2024 Council Meeting.

**Consideration / Recommendation**

With the assistance of the Human Resources team, a comprehensive search for a City Secretary was conducted. This process included several phases of online interviews, submissions of writing samples, and in-person interviews. The interview committee, comprising of City Management, the City Attorney, and a Managing Director, recommends hiring Jennifer Stubbs.

Ms. Stubbs brings over eleven years of experience in municipal government, most recently serving as City Secretary for the City of Elgin. She holds a Bachelor's degree in Leadership from Texas A&M University and a Master of Public Administration from the University of Texas at Arlington. Additionally, Ms. Stubbs is a Texas Registered Municipal Clerk and was recently honored with the Emerging Leader Award by the Texas Municipal Clerks Association.

Ms. Stubbs has spearheaded several positive initiatives that will benefit the City of Garland, including customized training for Boards and Commissions, transitioning to new agenda software, and leading a citizen engagement survey to enhance staff training on citizen service and interactions.

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**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Regular Session**

7.

**Meeting Date:** 06/18/2024

**Title:** Interlocal Agreement for the Transition of Garland Public Health Clinic to Dallas County Health & Human Services

**Submitted By:** Courtney Vanover, Department Coordinator II

**Strategic Focus Area:** Safe Community

---

**Issue/Summary**

City staff proposes entering into an interlocal agreement with Dallas County to sustain public health services. With the approval of the interlocal agreement, Dallas County Health & Human Services will become the authorized Health Authority for the City of Garland and will assume responsibility for public health services at the current Garland Public Health Clinic location.

**Background**

Garland Public Health Clinic services and staff were increased from historical levels with the use of COVID-19 grant funding. These grants supporting this increase are terminating; but the ongoing public demand for services is continuing at or above these levels. Therefore, in order to sustain operations, the staff level needs to remain the same. Unfortunately, the two remaining grant programs are insufficient to maintain current operational levels. Staff partnered with the Department of State Health Services (DSHS) and Dallas County Health and Human Services (DCHHS) to find a solution. Due to the structure of health funding for Counties, DCHHS has greater capacity to sustain the public health program at current capability levels. To make this possible, the annual IMM/LOCALS immunization grant and the Public Health Infrastructure Grant (PHIG) will be transferred to Dallas County to help support ongoing operations. Dallas County Health and Human Services intends to hire all clinic employees and use the existing clinic facility under a facility use agreement.

**Consideration / Recommendation**

Staff recommends Council approve the interlocal agreement between the City of Garland and Dallas County Health & Human Services allowing the transfer of Public Health Clinic operations and associated grant funding for the sustainment of public health services within the City of Garland.

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**Attachments**

24.6.11 FINAL ILA COG and DC with exhibits A,B,C and FUA and Terms  
FINAL Resolution for ILA w Dallas County re Public Health Services

---

**THE STATE OF**

**TEXAS COUNTY OF**

**DALLAS**

**CITY/COUNTY INTERLOCAL AGREEMENT  
FOR PUBLIC HEALTH SERVICES**

This Interlocal Agreement (the "Agreement") is made and entered into in the County of Dallas, State of Texas, by and between the City of Garland, Texas, a home-rule municipal corporation, duly incorporated and existing under the constitution and laws of the State of Texas (the "City"), and the County of Dallas, Texas, a political subdivision of the State of Texas, created and existing under Article XI, Section 1 of the Texas Constitution (the "County"). The County or the City may hereinafter be referred to individually as a "Party", or collectively, the "Parties".

**WHEREAS**, the Interlocal Cooperation Act, Government Code Chapter 791, authorizes any local government to contract with one or more local governments to perform governmental functions and services;

**WHEREAS**, Texas Health and Safety Code Section 121.031 authorizes the Commissioners Court of a county to establish a local health department;

**WHEREAS**, Dallas County Health and Human Services (DCHHS) department was established by the Commissioners Court as the local health department to perform all public health functions for in Dallas County area;

**WHEREAS**, the City and County desire to enter into an agreement, in accordance with the Interlocal Cooperation Act and the Local Public Health Reorganization Act, Texas Health and Safety Code Chapter 121 (the "Act") for the County to provide public services on behalf of the City; and

**WHEREAS**, the County has agreed to assume the City's public health services detailed in this Agreement as the in accordance with the terms and conditions set forth herein for a period of three (3) years.

**NOW, THEREFORE**; this Agreement is hereby made and entered into by the City and County for the mutual considerations stated herein:

**SECTION 1: ASSUMPTION OF CITY'S PUBLIC HEALTH SERVICES**

For a three (3) year term commencing on \_\_\_\_\_, 2024 and continuing through and including \_\_\_\_\_, 2027, the County shall assume the following public health services within the jurisdiction of Garland:

- 1. Adult and Childhood Immunizations: DCHHS shall provide immunizations for adults and children, including those provided under the Texas Vaccine for Children and Adult Safety



- Net programs.
2. Communicable Disease Surveillance: DCHHS shall conduct surveillance, investigations, and interventions related to communicable diseases.
  3. Community Health Education: DCHHS shall conduct community health education initiatives, including participation in health fairs.
  4. Emergency Public Health Response: DCHHS shall provide emergency public health response services in the event of a disaster or disease outbreak.
  5. Perinatal Hepatitis B Prevention Program: DCHHS shall implement a program aimed at preventing perinatal Hepatitis B transmission.
  6. Tuberculosis (TB) Screening and Referral: DCHHS shall conduct TB screening and refer individuals for further evaluation and treatment as necessary.
  7. Local Health Authority Duties: DCHHS shall fulfill the responsibilities of the Local Health Authority within the jurisdiction of Garland.

Contingent upon funding and resource availability, DCHHS will provide additional public health services, such as TB testing and treatment; chronic disease screening, education, and prevention programs; and sexual health screening, testing, and treatment.

## **SECTION 2: COUNTY RESPONSIBILITIES**

DCHHS shall operate a public health clinic located at 206 Carver Street, Garland, TX 75040 for the provision of public health services as outlined in this Agreement, so long as the City continues to provide the location for use by DCHHS as a public health clinic and provides janitorial services. DCHHS shall maintain staffing levels sufficient for the operation of the clinic and the provision of public health services to Garland residents. The County, at its sole discretion, shall determine what constitutes sufficient staffing.

The County will serve as the Health Authority for the City in accordance with Section 121.028(c) of the Texas Health and Safety Code. The Parties agree that the Scope of Services to be provided by the Health Authority shall include the statutory duties outlined in Section 121.024 of the Act.

## **SECTION 3: CITY RESPONSIBILITIES**

Garland shall, pursuant to a Facility Use Agreement in the form attached hereto grant DCHHS use of public health clinic space at 206 Carver Street, Garland, TX 75040 (referred to as Building Space) at no cost for the provision of public health services as outlined in this Agreement. In the event of a conflict between the provisions of this Agreement and the Facility Use Agreement, the Facility Use Agreement shall prevail.

In addition to the Building Space, the City shall transfer to the County all related assets necessary for the provision of services, including but not limited to equipment, furnishings, fixtures, and any other tangible property deemed reasonably necessary as agreed upon by both parties for the operation and maintenance of the Building Space with exception of network fiber connection and Facilities Department owned interior surveillance cameras, which will be removed prior to the transfer to the County (collectively referred to as the "Related Assets"). Condition of Assets: The County shall have the right to inspect the Building Space and Related Assets prior to occupancy of the building or acceptance of the related equipment, and any discrepancies or deficiencies shall be documented and addressed by the City at its expense prior to County occupancy begins. Through the term of the Agreement, the City shall maintain cleaning operations for the building to

allow the County to perform the obligations under Section 2. To the extent allowed by law, the City agrees to indemnify and hold harmless the County from any and all claims, damages, liabilities, or expenses (including attorney fees) arising out of or related to the City's ownership, of the Building Space and transferred Related Assets, except to the extent such claims, damages, liabilities, or expenses are caused by the negligence or willful misconduct of the County.

#### **SECTION 4: TRANSFER OF GRANT CONTRACTS**

The City hereby agrees to wholly transfer two (2) grant contracts (attached as Exhibits A and B) currently awarded by the Texas Department of State Health Service (DSHS) to the County as follows:

- Immunization/Locals - \$481,929 (This amount may change dependent on DSHS funding); and
- Public Health Infrastructure Grant (PHIG) - \$1,950,883

The City shall initiate the official request for the transfer with DSHS upon the execution of this Agreement. The County accepts responsibility for the administration, execution, and fulfillment of the aforementioned grant contracts upon their transfer from the City, and pursuant to the execution of the said contracts by the County and DSHS. The City shall provide all necessary documentation and, as far as reasonably practical, work to facilitate a smooth transfer process to ensure the County's seamless assumption of responsibility for the aforementioned grant contracts. Any terms and conditions outlined within the transferred grant contracts shall remain binding and unchanged, unless otherwise agreed upon by both Parties in writing. To the extent allowed by law, the County shall indemnify and hold harmless the City from any claims, liabilities, damages, or expenses arising out of or related to the transferred grant contracts, except to the extent caused by the City's negligence or willful misconduct. This provision shall become effective upon execution of this Agreement by both Parties.

#### **SECTION 5: PAYMENT LIMITATIONS/FISCAL FUNDING**

City shall not be liable to the County more than the amounts referenced above. County will not be required to perform any other services on behalf of the City other than those outlined in this Agreement. Notwithstanding any provisions contained in this Agreement, the obligations of the County under this Agreement are expressly contingent upon the availability of funding for each item and obligation for the Term of this Agreement and any pertinent extensions. The City shall have no right of action against County in the event County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future fiscal years. In the event that County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, County, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice to the City at the earliest possible time prior to the end of its fiscal year.

#### **SECTION 6: CONTRACT ADMINISTRATION**

This Agreement shall be administered on behalf of the City by the Managing Director of Strategic Initiatives or his/her designee, who shall coordinate with the transition of staffing and associated operations. The County shall be represented by the Director of the Dallas County Health and

Human Services Department, or his/her designee.

## **SECTION 7: NOTICES**

All notices, communications and reports required or permitted under this Agreement shall be deemed to have been given when personally delivered, or if mailed, seventy-two (72) hours after deposit of the same in the United States Mail, postage prepaid, certified, or registered, return receipt requested, properly addressed to the contact person at the addresses shown below, unless and until either party is otherwise notified in writing by the other party of a different address:

If intended for City, to:

Mistie Gardner  
Managing Director of  
Strategic Initiatives  
City of Garland  
200 North Fifth Street  
Garland, Texas 75040

With a copy to:  
City of Garland  
Attn: Office of the City Attorney  
200 North Fifth Street  
Garland, Texas 75040

If intended for County, to:

Dr. Philip Huang, Director  
Dallas County Department of Health and Human Services  
2377 N. Stemmons Frwy., Suite 800  
Dallas, Texas 75207-2710

With a copy to:  
Dallas County District Attorney's Office  
Attn: Barbara Nicholas  
500 Elm Street, Suite 6300  
Dallas, Texas 75202

## **SECTION 8: RECORDS**

Either Party may review all the services performed by the Health Authority under this Agreement, including all records and billings relating to the performance of this Agreement.

## **SECTION 9: LIABILITY**

All Parties agree to be responsible each for their own negligent acts or omissions, or other tortious conduct in the course of performance of this Agreement without waiving any sovereign immunity, governmental immunity, or other defenses available to the Parties under federal or state law. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities. All Parties agree that any such liability or damages occurring

during the performance of this Agreement caused by the joint or comparative negligence of the Parties, or their employees, agents or officers, shall be determined in accordance with comparative responsibility laws of Texas.

## **SECTION 10: INSURANCE**

Without limiting any of the other obligations or liabilities of the City, the City agrees that they will at all times during the Term of this Agreement maintain its self-insurance to the extent permitted by applicable law under a plan of self-insurance that is maintained at appropriate levels of insurance commensurate with the City's obligations hereunder and in accordance with sound accounting practices. Such self-insurance shall also cover the Health Authority while the Health Authority is performing their obligations pursuant to this Agreement.

## **SECTION 11: MISCELLANEOUS PROVISIONS**

**11.1 ENTIRE AGREEMENT AND AMENDMENT.** This Agreement, including any Exhibits and Attachments, constitutes the entire agreement between the Parties and supersedes any other agreements concerning the subject matter of this transaction, whether oral or written. No modification, amendment, novation, renewal, or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the Parties. Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in federal or state law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

**11.2 COUNTERPARTS, NUMBER/GENDER, AND HEADINGS.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Words of any gender used in this Agreement shall be held and construed to include any other gender. Any words in the singular shall include the plural and vice versa unless the context clearly requires otherwise. Headings are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

**11.3 SEVERABILITY.** If any provision of this Agreement is construed to be illegal, invalid, void, or unenforceable, this construction will not affect the legality or validity of any of the remaining provisions. The unenforceable or illegal provision will be deemed stricken and deleted, but the remaining provisions shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

**11.4 FORCE MAJEURE.** Neither party shall be in default or responsible for delays or failures in performance resulting from causes beyond its control. Such causes include but are not limited to acts of God, fire, storm, flood, earthquake, natural disaster, nuclear accident, strike, air traffic disruption, lockout, riot, freight embargo, public regulated utility, or governmental statutes, orders, or regulations superimposed after the fact. Any Party delayed by force majeure shall as soon as reasonably possible give the other Party written notice of the delay. The Party delayed shall use reasonable diligence to correct the cause of the delay, if correctable, and if the condition that caused the delay is corrected, the Party delayed shall immediately give the other Parties written notice thereof and shall resume performance under this Agreement as soon as practicable. The date of delivery or of performance shall be extended for at least a minimum time equal to the time lost by reason of the delay.

**11.5 DEFAULT/CUMULATIVE RIGHTS/MITIGATION.** It is not a waiver of default if the non-defaulting Party fails to immediately declare a default or delays in taking any action. The rights and remedies provided by this Agreement are cumulative, and either Party's use of any right or remedy will not preclude or waive its right to any other remedy. These rights and remedies are in addition to any other rights the Parties may have by law, statute, ordinance or otherwise. Both Parties have a duty to mitigate damages.

**11.6 IMMUNITY.** This Agreement is expressly made subject to City's and County's Governmental Immunity, including, without limitation, Title 5 of the Texas Civil Practice and Remedies Code and all applicable State and federal laws. The Parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability, or a waiver of any tort limitation, that City or County has by operation of law, or otherwise. Nothing in this Agreement is intended to benefit any third-party beneficiary.

**11.7 COMPLIANCE WITH LAWS AND VENUE.** In providing services required by this Agreement, City and County must observe and comply with all licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials, and all applicable federal, State, and local statutes, ordinances, rules, and regulations. Texas law shall govern this Agreement and venue shall lie exclusively in State and Federal Court physically located in Dallas County, Texas.

**11.8 RELATIONSHIP OF PARTIES.** Each Party is an independent contractor and not an agent, servant, joint enterpriser, joint ventures, or employee of the other Party. City and County agree and acknowledge that each entity shall be responsible for its own acts, forbearance, negligence, and deeds, and for those of its agents or employees in conjunction with the performance of work covered under this Agreement.

**11.9 CONTRA PROFERENTUM.** The doctrine of contra proferentum shall not apply to this Agreement. If an ambiguity exists in this Agreement, the Agreement shall not be construed against the Party who drafted the Agreement and such Party shall not be responsible for the language used.

**11.10 ASSIGNMENT.** Neither Party may transfer or assign its interest in this Agreement without prior written consent of the non-assigning Party. County approval to transfer or assign City's interest in this Agreement is subject to formal approval by the Dallas County Commissioners Court. City approval to transfer or assign County's duties to perform this Agreement is subject to formal approval by the Garland City Council.

**11.11 CONTINUING OBLIGATIONS.** All obligations of this Agreement which expressly or by their nature survive the expiration, termination, or transfer of this Agreement shall continue in full force and effect after and notwithstanding its expiration, termination, or transfer until such are satisfied in full or by their nature expire.

**11.12 BINDING EFFECT.** This Agreement and the respective rights and obligations of the Parties hereto shall inure to the benefit and be binding upon the successors and assigns of the Parties hereto, as well as the parties themselves.

**11.13 SIGNATORY WARRANTY.** City and County represent that each has the full right, power,

and authority to enter and perform this Agreement in accordance with all of the terms and conditions herein, and that the execution and delivery of this Agreement is made by authorized representatives of the Parties to validly and legally bind the Parties to all terms, performances, and provisions set forth in this Agreement.

**EXECUTED** to be effective as of the \_\_ day of \_\_\_\_\_, 202\_, by City signing by and through its City Manager, duly authorized to execute same by Resolution No. \_\_ dated\_, 202\_, and by County, acting through the Dallas County Judge, duly authorized to execute Commissioners' Court Order No. \_\_\_\_\_ adopted by the Commissioners' Court on \_\_\_\_\_, 202\_.

**RECOMMENDED BY:**

**RECOMMENDED BY:**

\_\_\_\_\_  
Dr. Philip Huang  
Dallas County Health & Human Services

\_\_\_\_\_  
Mistie Gardner  
Managing Director

**COUNTY OF DALLAS:**  
NAME

**CITY OF GARLAND:**

BY: \_\_\_\_\_  
Clay Lewis Jenkins  
County Judge

BY: \_\_\_\_\_  
Judson Rex  
City Manager

**APPROVED AS TO FORM\*:**  
**JOHN CREUZOT**  
**DALLAS COUNTY DISTRICT ATTORNEY**

**APPROVED AS TO FORM:**  
**TREY LANSFORD**  
**DEPUTY CITY ATTORNEY**

**BARBARA NICHOLAS**  
**CHIEF, CIVIL DIVISION**

BY: \_\_\_\_\_

BY: \_\_\_\_\_  
Joshua Humphreys  
Assistant District Attorney

\*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

**Exhibit A**



**TEXAS**  
Health and Human  
Services

**Texas Department of State Health Services**

Jennifer A. Shuford, M.D., M.P.H.  
*Commissioner*

Mistie Gardner  
City of Garland Health Department  
206 Carver Street  
Garland, Texas 75040

Subject: IMM/LOCALS  
Contract Number: HHS001331300031  
Contract Amount: \$481,929.00  
Contract Term: September 1, 2023, through August 31, 2024

Dear Ms. Gardner:

Enclosed is the IMM/LOCALS contract between the Department of State Health Services and City of Garland Health Department.

The purpose of this contract is to prevent and control the transmission of vaccine-preventable diseases in children and adults, with emphasis on accelerating strategic interventions to improve their vaccine coverage levels.

Please let me know if you have any questions or need additional information.

Sincerely,

Michelle Hilscher, CTCM  
Contract Manager  
(512) 776-6550  
[michelle.hilscher@dshs.texas.gov](mailto:michelle.hilscher@dshs.texas.gov)



**SIGNATURE DOCUMENT FOR  
DEPARTMENT OF STATE HEALTH SERVICES GRANT AGREEMENT,  
CONTRACT NO. HHS001331300031  
UNDER THE  
IMMUNIZATION LOCALS GRANT PROGRAM**

The parties to this agreement (“Grant Agreement” or “Contract”) are the **DEPARTMENT OF STATE HEALTH SERVICES** (“System Agency” or “DSHS”), a pass-through entity, and **CITY OF GARLAND HEALTH DEPARTMENT** (“Grantee”), having its principal office at 206 Carver Street, Garland, Texas 75040 (each a “Party” and collectively the “Parties”).

**I. PURPOSE**

The purpose of this Grant Agreement is to prevent and control the transmission of vaccine-preventable diseases in children and adults, with emphasis on accelerating strategic interventions to improve their vaccine coverage levels.

**II. LEGAL AUTHORITY**

This Grant Agreement is entered into pursuant to Sections 317, 317(k)(2) of the Public Health Service Act (42 USC Sections 247b, 247b(k)(2) and 247c), as amended. This Contract is authorized by and in compliance with 42 USC 247b; 42 USC 243; 42 USC 300aa-3, 300aa-25, and 300aa-26; 42 USC 1396s; Chapter 791 of the Texas Government Code; and Chapters 12, 81, 161 and 1001 of the Texas Health and Safety Code.

**III. DURATION**

This Grant Agreement is effective on September 1, 2023, and expires on August 31, 2024, unless sooner terminated or renewed or extended. System Agency, at its sole discretion, may extend this Grant Agreement for up to four (4) additional one-year terms for a maximum term of five (5) years.

**IV. STATEMENT OF WORK**

The Scope of Grant Project to which Grantee is bound is incorporated into and made a part of this Grant Agreement for all purposes and included as **ATTACHMENT A, STATEMENT OF WORK**.

**V. BUDGET AND INDIRECT COST RATE**

The total amount of this Grant Agreement will not exceed **\$481,929.00**. Grantee is not required to provide matching funds.

The total not-to-exceed amount includes the following:

Total Federal Funds: \$214,426.00

Total State Funds: \$267,503.00

All expenditures under the Grant Agreement will be in accordance with **ATTACHMENT B, BUDGET**.

**VI. REPORTING REQUIREMENTS**

Grantee shall submit reports in accordance with the requirements specified in **ATTACHMENT A, STATEMENT OF WORK**.

**VII. CONTRACT REPRESENTATIVES**

The following will act as the representative authorized to administer activities under this Grant Agreement on behalf of their respective Party.

**System Agency**

Michelle Hilscher  
Department of State Health Services  
P.O. Box 149347 – Mail Code 1990  
Austin, Texas 78714-9347  
[cms\\_covidimm@dshs.texas.gov](mailto:cms_covidimm@dshs.texas.gov)

**Grantee**

Mistie Gardner  
City of Garland Health Department  
206 Carver Street  
Garland, Texas 75040  
[mgardner@garlandtx.gov](mailto:mgardner@garlandtx.gov)

**VIII. NOTICE REQUIREMENTS**

- A. All notices given by Grantee shall be in writing, include the Grant Agreement contract number, comply with all terms and conditions of the Grant Agreement, and be delivered to the System Agency's Contract Representative identified above.
- B. Grantee shall send legal notices to System Agency at the address below and provide a copy to the System Agency's Contract Representative:

Health and Human Services Commission  
4601 W. Guadalupe, Mail Code 1100  
Austin, Texas 78751  
Attn: Office of Chief Counsel

With a copy to:

Department of State Health Services  
1100 W. 49th Street, Mail Code 1919  
Austin, Texas 78756  
Attention: Office of General Counsel

- C. Notices given by System Agency to Grantee may be emailed, mailed or sent by common carrier. Email notices shall be deemed delivered when sent by System Agency. Notices sent by mail shall be deemed delivered when deposited by the System Agency in the United States mail, postage paid, certified, return receipt requested. Notices sent by common carrier shall

be deemed delivered when deposited by the System Agency with a common carrier, overnight, signature required.

- D. Notices given by Grantee to System Agency shall be deemed delivered when received by System Agency.
- E. Either Party may change its Contract Representative or Legal Notice contact by providing written notice to the other Party.

## **IX. FEDERAL AWARD INFORMATION**

**GRANTEE'S UNIQUE ENTITY IDENTIFIER IS: F2DLUDKRCN98**

**Federal funding under this Grant Agreement is a subaward under the following federal award.**

**Federal Award Identification Number (FAIN): NH23IP922616**

- A. Assistance Listings Title: Immunization Cooperative Agreements
- B. Assistance Listing Number: 93.268
- C. Assistance Listing Dollar Amount: \$23,869,537.00
- D. Federal Award Date: 07/01/2022
- E. Federal Award Period: 07/01/2019 – 06/30/2024
- F. Name of Federal Awarding Agency: Centers for Disease Control and Prevention, Office of Financial Resources
- G. Federal Award Project Description: CDC-RFA-IP19-1901, Immunization and Vaccines for Children
- H. Awarding Official Contact Information:
  - Name: Kathy Raible, GMS
  - Email: [kcr8@cdc.gov](mailto:kcr8@cdc.gov)
  - Phone: 770-488-2045
- I. Total Amount of Federal Funds Awarded to System Agency: \$23,869,537.00
- J. Amount of Funds Awarded to Grantee: \$481,929.00
- K. Identification of Whether the Award is for Research and Development: No

## **X. CONTRACT DOCUMENTS**

**The following documents are incorporated by reference and made a part of this Grant Agreement for all purposes.**

Unless expressly stated otherwise in this Grant Agreement, in the event of conflict, ambiguity or inconsistency between or among any documents, all System Agency documents take precedence over Grantee's documents and the Data Use Agreement takes precedence over all other contract documents.

**ATTACHMENT A – STATEMENT OF WORK**  
**ATTACHMENT B – BUDGET**  
**ATTACHMENT C – HHS CONTRACT AFFIRMATIONS v. 2.2 (MAY 2022)**  
**ATTACHMENT D – HHS UNIFORM TERMS AND CONDITIONS – GRANT v. 3.2**  
**(JULY 2022)**  
**ATTACHMENT E – DATA USE AGREEMENT-TACCHO VERSION (OCTOBER 23,**  
**2019)**  
**ATTACHMENT E-1 DATA USE AGREEMENT-SECURITY AND PRIVACY INQUIRY**  
**ATTACHMENT F – ADDITIONAL PROVISIONS**  
**ATTACHMENT G – FEDERAL ASSURANCES**  
**ATTACHMENT H – CERTIFICATION REGARDING LOBBYING**  
**ATTACHMENT I – DISCLOSURE OF LOBBYING ACTIVITIES (SF-LLL)**  
**ATTACHMENT J – FFATA CERTIFICATION FORM**

**XI. SIGNATURE AUTHORITY**

Each Party represents and warrants that the person executing this Grant Agreement on its behalf has full power and authority to enter into this Grant Agreement. Any services or work performed by Grantee before this Grant Agreement is effective or after it ceases to be effective is performed at the sole risk of Grantee.

**SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE FOR SYSTEM AGENCY GRANT AGREEMENT,  
CONTRACT NO. HHS001331300031**

**SYSTEM AGENCY**

DocuSigned by:  
**Kirk Cole**  
04DDBFAAF50040B...  
\_\_\_\_\_  
Signature

Printed Name: Kirk Cole

Title: Deputy Commissioner

Date of Signature: August 1, 2023

**GRANTEE**

DocuSigned by:  
*Mistie Gardner*  
04F0A31E06C142D...  
\_\_\_\_\_  
Signature

Printed Name: Mistie Gardner

Title: Director of Operations and Emergency Mgmt

Date of Signature: July 28, 2023

## **ATTACHMENT A STATEMENT OF WORK**

### **I. GRANTEE RESPONSIBILITIES**

Grantee shall:

- A.** Implement and operate an immunization program for children, adolescents, and adults, with special emphasis on accelerating interventions to improve the immunization coverage of children three (3) years of age or younger (birth to 35 months of age). Grantee shall incorporate traditional and non-traditional systematic approaches designed to eliminate barriers, expand immunization capacity, and establish uniform operating policies, as described herein.
- B.** Be enrolled as a provider in the Texas Vaccines for Children (TVFC) and the Adult Safety Net (ASN) Programs by the effective date of this Contract. This includes a signed *Deputization Addendum Form (EF11-13999)*.
- C.** Maintain staffing levels to meet required activities of the Contract and ensure staff funded by this Contract attend required training.
- D.** Report all notifiable conditions as specified in Texas Administrative Code (TAC) Title 25, Part I §§ 97.1-97.6, as amended, and as otherwise required by law.
- E.** Report all vaccine adverse event occurrences in accordance with the 1986 National Childhood Vaccine Injury Act (NCVIA) 42 U.S.C. § 300aa-25 (located at <http://vaers.hhs.gov/> or 1-800-822-7967, as amended).
- F.** Sustain a network of TVFC/ASN providers to administer vaccines to program-eligible populations by conducting the following activities:
  - 1. Ensuring New Provider Checklist is completed;
  - 2. Conducting quality assurance reviews;
  - 3. Ensuring annual influenza pre-book survey is completed;
  - 4. Conducting compliance site visits;
  - 5. Conducting unannounced storage and handling visits; and
  - 6. Ensuring providers adhere to the vaccine borrowing procedure.
- G.** Participate in audits and assessments through the following activities:
  - 1. Completing and submitting through Child Health Reporting System (CHRS) all audits and assessments conducted on childcare facilities and Head Start Centers;
  - 2. Completing audits, assessments and retrospective surveys of public and private schools;
  - 3. Reviewing monthly reports to ensure data quality;
  - 4. Reviewing the monthly Provider Activity Reports;

5. Reviewing the quarterly Consent Accepted Rate Evaluations; and
  6. Conducting quality improvement assessments of Texas Immunization Registry organizations.
- H.** Provide education and outreach activities regarding vaccines and vaccine-preventable diseases, Texas Immunization Registry, and TVFC and ASN Programs to the following:
1. American Indian Tribes;
  2. Schools and childcare facilities;
  3. Healthcare workers; and
  4. Community and general public.
- I.** Not deny vaccinations to recipients because they do not reside within Grantee's jurisdiction or because of an inability to pay an administration fee.
- J.** Be responsible for identification and case management of all hepatitis B surface antigen (HBsAg)-positive pregnant women. Grantee shall ensure timely newborn post-exposure prophylaxis (PEP) with hepatitis B vaccine and hepatitis B immune globulin (HBIG), timely completion of doses two and three of hepatitis B vaccine, and timely completion of post-vaccination serologic testing (PVST).
- K.** Be responsible for assessing and/or auditing coverage rates and/or compliance with vaccine requirements at assigned schools and childcare facilities in accordance with the Population Assessment Manual, which is distributed annually from DSHS.
- L.** Transfer (which may include shipping) overstocked vaccines and vaccines approaching expiration to alternate providers for immediate use when instructed to do so by the DSHS Public Health Region (PHR) Immunization Program Manager to avoid vaccine waste. Grantee is responsible for covering the cost to ship overstocked vaccines and vaccines approaching expiration.
- M.** Receive written approval from DSHS before varying from applicable policies, procedures, protocols, and/or work plans, and must update and disseminate its implementation documentation to its staff involved in activities under this Contract within forty-eight (48) hours of making approved changes.
- N.** Review monthly Contract funding expenditures and salary savings from any Contract-paid staff vacancies and revise spending plan to ensure that all funds will be properly expended under this Contract before the end of the Contract term.
- O.** Submit out-of-state travel requests to the Immunization Section for approval when utilizing Contract funds or program income.

## **II. REPORTING REQUIREMENTS**

Grantee shall:

- A. Report the number of doses administered to underinsured children monthly, as directed by DSHS.
- B. Report the number of unduplicated underinsured clients served, as directed by DSHS.
- C. Complete and submit Immunization Inter-Local Agreement (ILA) Quarterly Report form, utilizing the format provided by the DSHS Immunization Section and available at <https://dshs.texas.gov/immunize/lhd.shtm> by the report due date. If the due date falls on a weekend or state approved holiday, the report is due the next business day.

Report Type	Reporting Period	Report Due Date
Programmatic	09/01/2023 to 11/30/2023	12/31/2023
Programmatic	12/01/2023 to 02/29/2024	03/31/2024
Programmatic	03/01/2024 to 05/31/2024	06/30/2024
Programmatic	06/01/2024 to 08/31/2024	09/30/2024

Submit quarterly reports electronically through an online tool according to the timeframes stated above. DSHS Immunization Section will provide instructions at the beginning of each state fiscal year through CMS. Supplemental report documents (PEAR and AFIX reports, vacancy letters, etc.) should be sent to [dshsimmunizationcontracts@dshs.texas.gov](mailto:dshsimmunizationcontracts@dshs.texas.gov).

- D. Submit the Financial Status Report (FSR-269A) biannually as outlined below. Grantee shall email the Financial Status Report (FSR-269A) to the following email address: [FSRgrants@dshs.texas.gov](mailto:FSRgrants@dshs.texas.gov).

Period Covered	Due Date
September 1, 2023 – February 29, 2024	February 29, 2024
March 1, 2024 - August 31, 2024	September 31, 2024

- E. Maintain an inventory of equipment, supplies defined as Controlled Assets, and real property. Submit an annual cumulative report of the equipment and other property on HHS System Agency Grantee's Property Inventory Report to the designated DSHS Contract Manager and [fsoequip@dshs.texas.gov](mailto:fsoequip@dshs.texas.gov) by email not later than October 15 of each year. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets are considered Supplies.
- F. Provide written notification of budget transfers by submission of a revised Categorical Budget Form to the designated DSHS Contract Manager, highlighting the areas affected by the budget transfer. Grantee is advised as follows:



1. Transferring funds between budget categories, other than the equipment and indirect cost categories, is allowable, but cannot exceed 25% of the total Contract value during a Contract budget period. If the budget transfer(s) exceeds 25% of the total Contract value, alone or cumulatively, a formal Contract amendment is required; and
2. After review, the designated DSHS Contract Manager shall provide notification of acceptance to Grantee via email, upon receipt of which, the revised budget shall be incorporated into the Contract.
3. Grantee's budget revision is not authorized, and funds cannot be utilized until the contract amendment is executed.

### **III. RULES**

Grantee shall:

- A. Provide services in accordance with all applicable federal and state laws, rules, regulations, standards and guidelines, as amended, including, but not limited to, the following:
  1. Written policies and procedures provided by DSHS in managing vaccines supplied through the ASN and TVFC Programs, including guidelines for proper storage, handling, and safeguarding of vaccines in the event of natural disaster.
  2. DSHS Immunization updated guidance according to the *FY2024 Contractors Guide*, located at:  
<https://www.dshs.texas.gov/immunize/Responsible-Entities/Contract-Management/>.
  3. Texas Health and Safety Code § 1001.089 and maintain the confidentiality of any public health data obtained through provision of essential public health services as those services are defined in Texas Health and Safety Code §121.002.
  4. Those terms and conditions set forth in **ATTACHMENT E, DATA USE AGREEMENT**.

### **IV. PERFORMANCE MEASURES**

System Agency will monitor the Grantee's performance of the requirements in this **ATTACHMENT A** and compliance with the Contract's terms and conditions.

### **V. INVOICE AND PAYMENT**

Grantee shall request monthly payments by the 30<sup>th</sup> day following the service month using the State of Texas Purchase Voucher (Form B-13) at <http://www.dshs.texas.gov/grants/forms.shtm>. System Agency will issue reimbursement payments to Grantees on a monthly basis for reported actual cash disbursements which are supported by adequate documentation. Invoices must be submitted monthly to prevent delays in subsequent months. Grantees that do not incur expenses within a month are required to submit a "zero dollar" invoice on a monthly basis. Grantee must submit a final

close-out invoice and final financial status report no later than 45 days following the end of the Contract term. Invoices received more than 45 days after the end of the Contract term are subject to denial of payment. Grantee shall electronically submit all invoices with supporting documentation to: [invoices@dshs.texas.gov](mailto:invoices@dshs.texas.gov) and [CMSinvoices@dshs.texas.gov](mailto:CMSinvoices@dshs.texas.gov) and a copy to the assigned DSHS Contract Representative identified in the Signature Document.

- A.** At a minimum, voucher should include:
1. Grantee name, address, email address, vendor identification number, and telephone number;
  2. DSHS Contract or Purchase Order number;
  3. Dates services were completed and/or products were delivered;
  4. The total invoice amount; and
  5. Any additional supporting documentation which is required by the Statement of Work or as requested by DSHS.

Failure to submit required information may result in delay of payment or return of invoice. Billing invoices must be legible. Illegible or incomplete invoices which cannot be verified will be disallowed for payment.

- B.** DSHS will pay Grantee monthly on a cost reimbursement basis and in accordance with **ATTACHMENT B, BUDGET**, of this Contract. DSHS will reimburse Grantee only for allowable and reported expenses incurred within the grant term.

**ATTACHMENT B**  
**BUDGET**

**Organization Name: City of Garland Health Department**

**Program ID: IMM/LOCALS**

**Contract Number: HHS001331300031**

<b>Budget Category</b>	<b>Budget Period 9/1/2023-8/31/2024</b>	<b>Category Total</b>
Personnel	\$330,995.00	\$330,995.00
Fringe Benefits	\$150,934.00	\$150,934.00
Travel	\$0.00	\$0.00
Equipment	\$0.00	\$0.00
Supplies	\$0.00	\$0.00
Contractual	\$0.00	\$0.00
Other	\$0.00	\$0.00
Total Direct Charges	\$481,929.00	\$481,929.00
Indirect Charges	\$0.00	\$0.00
<b>Total</b>	<b>\$481,929.00</b>	<b>\$481,929.00</b>

**HEALTH AND HUMAN SERVICES**  
**Contract Number HHS001331300031**  
**Attachment C **CONTRACT AFFIRMATIONS****

For purposes of these Contract Affirmations, HHS includes both the Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). System Agency refers to HHSC, DSHS, or both, that will be a party to this Contract. These Contract Affirmations apply to all Contractors and Grantees (referred to as “Contractor”) regardless of their business form (e.g., individual, partnership, corporation).

By entering into this Contract, Contractor affirms, without exception, understands, and agrees to comply with the following items through the life of the Contract:

**1.** Contractor represents and warrants that these Contract Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract and any related Solicitation.

**2. Complete and Accurate Information**

Contractor represents and warrants that all statements and information provided to HHS are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.

**3. Public Information Act**

Contractor understands that HHS will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

**4. Contracting Information Requirements**

Contractor represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

**5. Assignment**

- A. Contractor shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from System Agency. Any attempted assignment in violation of this provision is void and without effect.
- B. Contractor understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. Upon receipt of System Agency's notice of assignment, pledge, or transfer, Contractor shall cooperate with System Agency in giving effect to such assignment, pledge, or transfer, at no cost to System Agency or to the recipient entity.

**6. Terms and Conditions**

Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation, as well as terms and conditions advanced by Contractor that differ in any manner from HHS' terms and conditions, if any, are rejected unless expressly accepted by System Agency in writing.

**7. HHS Right to Use**

Contractor agrees that HHS has the right to use, produce, and distribute copies of and to disclose to HHS employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as HHS deems necessary to complete the procurement process or comply with state or federal laws.

**8. Release from Liability**

Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of System Agency.

**9. Dealings with Public Servants**

Contractor has not given, has not offered to give, and does not 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 this Contract or any related Solicitation, or related Solicitation Response.

**10. Financial Participation Prohibited**

Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

**11. Prior Disaster Relief Contract Violation**

Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract

and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

**12. Child Support Obligation**

Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate. If the certification is shown to be false, Contractor may be liable for additional costs and damages set out in 231.006(f).

**13. Suspension and Debarment**

Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.

**14. Excluded Parties**

Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism,*" published by the United States Department of the Treasury, Office of Foreign Assets Control.'

**15. Foreign Terrorist Organizations**

Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

**16. Executive Head of a State Agency**

In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

**17. Human Trafficking Prohibition**

Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

**18. Franchise Tax Status**

Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.

**19. Debts and Delinquencies**

Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

**20. Lobbying Prohibition**

Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

**21. Buy Texas**

Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.

**22. Disaster Recovery Plan**

Contractor agrees that upon request of System Agency, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.

**23. Computer Equipment Recycling Program**

If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.

**24. Television Equipment Recycling Program**

If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.

**25. Cybersecurity Training**

- A. Contractor represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.
- B. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.

**26. Restricted Employment for Certain State Personnel**

Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.

**27. No Conflicts of Interest**

- A. Contractor represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to System Agency under this Contract or any related Solicitation and that Contractor's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
- B. Contractor agrees that, if after execution of the Contract, Contractor discovers or is made aware of a Conflict of Interest, Contractor will immediately and fully disclose such interest in writing to System Agency. In addition, Contractor will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Contractor or by System Agency as a potential conflict. System Agency reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Contractor agrees to abide by System Agency's decision.

**28. Fraud, Waste, and Abuse**

Contractor understands that HHS does not tolerate any type of fraud, waste, or abuse. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Pursuant to Texas Government Code, Section 321.022, if the administrative head of a department or entity that is subject to audit by the state auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the Texas State Auditor's Office (SAO). All employees or contractors who have reasonable cause to believe that fraud, waste, or abuse has occurred (including misconduct by any HHS employee, Grantee officer, agent, employee, or subcontractor that would constitute fraud, waste, or abuse) are required to immediately report the questioned activity to the Health and Human Services Commission's Office of Inspector General. Contractor agrees to comply with all applicable laws, rules, regulations, and System Agency policies regarding fraud, waste, and abuse including, but not limited to, HHS Circular C-027.

A report to the SAO must be made through one of the following avenues:

- SAO Toll Free Hotline: 1-800-TX-AUDIT
- SAO website: <http://sao.fraud.state.tx.us/>

All reports made to the OIG must be made through one of the following avenues:



- OIG Toll Free Hotline 1-800-436-6184
- OIG Website: ReportTexasFraud.com
- Internal Affairs Email: InternalAffairsReferral@hhsc.state.tx.us
- OIG Hotline Email: OIGFraudHotline@hhsc.state.tx.us.
- OIG Mailing Address: Office of Inspector General  
Attn: Fraud Hotline  
MC 1300  
P.O. Box 85200  
Austin, Texas 78708-5200

**29. Antitrust**

The undersigned affirms under penalty of perjury of the laws of the State of Texas that:

- A. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- B. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any federal antitrust law; and
- C. neither I nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Contractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Contractor.

**30. Legal and Regulatory Actions**

Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Contractor or any of the individuals or entities included in numbered paragraph 1 of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to System Agency a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify System Agency in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update System Agency shall constitute breach of contract and may result in immediate contract termination.

**31. No Felony Criminal Convictions**

Contractor represents that neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, have been convicted of a felony criminal offense or that if such a conviction has occurred Contractor has fully advised System Agency in writing of the facts and circumstances surrounding the convictions.

**32. Unfair Business Practices**

Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

**33. Entities that Boycott Israel**

Contractor represents and warrants that (1) it does not, and shall not for the duration of the Contract, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

**34. E-Verify**

Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Contract to determine the eligibility of:

1. all persons employed by Contractor to perform duties within Texas; and
2. all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.

**35. Former Agency Employees – Certain Contracts**

If this Contract is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, in accordance with Section 2252.901 of the Texas Government Code, Contractor represents and warrants that neither Contractor nor any of Contractor's employees including, but not limited to, those authorized to provide services under the Contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the Contract.

**36. Disclosure of Prior State Employment – Consulting Services**

If this Contract is for consulting services,

A. In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, System Agency or another State of Texas agency at any time during the two years preceding the submission of Contractor’s offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:

1. Name of individual(s) (Contractor or employee(s));
2. Status;
3. The nature of the previous employment with HHSC or the other State of Texas agency;
4. The date the employment was terminated and the reason for the termination; and
5. The annual rate of compensation for the employment at the time of its termination.

B. If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by System Agency or any other State of Texas agency at any time during the two years preceding the submission of Contractor’s offer to provide services.

**37. Abortion Funding Limitation**

Contractor understands, acknowledges, and agrees that, pursuant to Article IX of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act:

1. performs an abortion procedure that is not reimbursable under the state’s Medicaid program;
2. is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state’s Medicaid program; or
3. is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the state’s Medicaid program.

The provision does not apply to a hospital licensed under Chapter 241, Health and Safety Code, or an office exempt under Section 245.004(2), Health and Safety Code. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article IX.

**38. Funding Eligibility**

Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Contractor certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code.

**39. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR 200.216)**

Contractor certifies that the individual or business entity named in this Response or Contract is not ineligible to receive the specified Contract or funding pursuant to 2 CFR 200.216.

**40. COVID-19 Vaccine Passports**

Pursuant to Texas Health and Safety Code, Section 161.0085(c), Contractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded contract.

**41. Entities that Boycott Energy Companies**

In accordance with Senate Bill 13, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies boycotting certain energy companies), Contractor represents and warrants that: (1) it does not, and will not for the duration of the Contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

**42. Entities that Discriminate Against Firearm and Ammunition Industries**

In accordance with Senate Bill 19, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies that discriminate against firearm and ammunition industries), Contractor verifies that: (1) it does not, and will not for the duration of the Contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

**43. Security Controls for State Agency Data**

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.138, Contractor understands, acknowledges, and agrees that if, pursuant to this Contract, Contractor is or will be authorized to access, transmit, use, or store data for System Agency, Contractor is required to meet the security controls the System Agency determines are proportionate with System Agency's risk under the Contract based on the sensitivity of System Agency's data and that Contractor must periodically provide to System Agency evidence that Contractor meets the security controls required under the Contract.

**44. Cloud Computing State Risk and Authorization Management Program (TX-RAMP)**

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.0593, Contractor acknowledges and agrees that, if providing cloud computing services for System Agency, Contractor must comply with the requirements of the state risk and authorization management program and that System Agency may not enter or renew a contract with Contractor to purchase cloud computing services for the agency that are subject to the state risk and authorization management program unless Contractor demonstrates compliance with program requirements. If providing cloud computing services for System Agency that are subject to the state risk and authorization management program, Contractor certifies it will maintain program compliance and certification throughout the term of the Contract.

**45. Office of Inspector General Investigative Findings Expert Review**

In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 531.102(m-1)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

**46. Contract for Professional Services of Physicians, Optometrists, and Registered Nurses**

In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2254.008(a)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

**47. Foreign-Owned Companies in Connection with Critical Infrastructure**

If Texas Government Code, Section 2274.0102(a)(1) (relating to prohibition on contracts with certain foreign-owned companies in connection with critical infrastructure) is applicable to this Contract, pursuant to Government Code Section 2274.0102, Contractor certifies that neither it nor its parent company, nor any affiliate of Contractor or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2274.0103, or (2) headquartered in any of those countries.

**48. Critical Infrastructure Subcontracts**

For purposes of this Paragraph, the designated countries are China, Iran, North Korea, Russia, and any countries lawfully designated by the Governor as a threat to critical infrastructure. Pursuant to Section 113.002 of the Business and Commerce Code, Contractor shall not enter into a subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business and Commerce Code, in this state, other than access specifically allowed for product warranty and support purposes to any subcontractor unless (i) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is majority owned or controlled by citizens or governmental entities of a designated country; and (ii) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is headquartered in a designated country. Contractor will notify the System Agency before entering into any subcontract that will provide direct or remote

access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business & Commerce Code, in this state.

**49. Enforcement of Certain Federal Firearms Laws Prohibited**

In accordance with House Bill 957, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2.101 is applicable to Contractor, Contractor certifies that it is not ineligible to receive state grant funds pursuant to Texas Government Code, Section 2.103.

**50. Prohibition on Abortions**

Contractor understands, acknowledges, and agrees that, pursuant to Article II of the General Appropriations Act, (1) no funds shall be used to pay the direct or indirect costs (including marketing, overhead, rent, phones, and utilities) of abortion procedures provided by contractors of HHSC; and (2) no funds appropriated for Medicaid Family Planning, Healthy Texas Women Program, or the Family Planning Program shall be distributed to individuals or entities that perform elective abortion procedures or that contract with or provide funds to individuals or entities for the performance of elective abortion procedures. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article II.

**51. False Representation**

Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

**52. False Statements**

Contractor represents and warrants that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material misrepresentation made by Contractor during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

**53. Permits and License**

Contractor represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.

**54. Equal Employment Opportunity**

Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

**55. Federal Occupational Safety and Health Law**

Contractor represents and warrants that all articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).

**56. Signature Authority**

Contractor represents and warrants that the individual signing this Contract Affirmations document is authorized to sign on behalf of Contractor and to bind the Contractor.

**Signature Page Follows**

**Authorized representative on behalf of Contractor must complete and sign the following:**

City of Garland Public Health Department

---

**Legal Name of Contractor**

---

**Assumed Business Name of Contractor, if applicable (d/b/a or 'doing business as')**

---

**Texas County(s) for Assumed Business Name (d/b/a or 'doing business as')**

**Attach Assumed Name Certificate(s) filed with the Texas Secretary of State and Assumed Name Certificate(s), if any, for each Texas County Where Assumed Name Certificate(s) has been filed.**

DocuSigned by:  
*Mistie Gardner*  
04F0A31E865142B...

July 28, 2023

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**Signature of Authorized Representative**

Mistie Gardner

---

**Date Signed**

Director of Operations and Emergency Mgmt

---

**Printed Name of Authorized Representative  
First, Middle Name or Initial, and Last Name**

206 Carver Street

---

**Title of Authorized Representative**

Garland, TX 75040

---

**Physical Street Address**

---

**City, State, Zip Code**

---

**Mailing Address, if different**

972-205-3370

---

**City, State, Zip Code**

972-205-3372

---

**Phone Number**

gph@garlandtx.gov

---

**Fax Number**

---

**Email Address**

756000534

---

**DUNS Number**

756000534-1847361

---

**Federal Employer Identification Number**

756000534 7361

---

**Texas Identification Number (TIN)**

756000534-7361

---

**Texas Franchise Tax Number**

F2DLUDKRCN98

---

**Texas Secretary of State Filing  
Number**

---

**SAM.gov Unique Entity Identifier (UEI)**





# TEXAS

## Health and Human Services

**Health and Human Services (HHS)**

**Uniform Terms and Conditions - Grant**

**Version 3.2**

Published and Effective – July 2022

Responsible Office: Chief Counsel

## **ABOUT THIS DOCUMENT**

In this document, Grantees (also referred to in this document as subrecipients or contractors) will find requirements and conditions applicable to grant funds administered and passed-through by both the Texas Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). These requirements and conditions are incorporated into the Grant Agreement through acceptance by Grantee of any funding award by HHSC or DSHS.

The terms and conditions in this document are in addition to all requirements listed in the RFA, if any, under which applications for this grant award are accepted, as well as all applicable federal and state laws and regulations. Applicable federal and state laws and regulations may include, but are not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; requirements of the entity that awarded the funds to HHS; Chapter 783 of the Texas Government Code; Texas Comptroller of Public Accounts' agency rules (including Uniform Grant and Contract Standards set forth in Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code); the Texas Grant Management Standards (TxGMS) developed by the Texas Comptroller of Public Accounts; and the Funding Announcement, Solicitation, or other instrument/documentation under which HHS was awarded funds. HHS, in its sole discretion, reserves the right to add requirements, terms, or conditions.

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## ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

### 1.1 DEFINITIONS

As used in this Grant Agreement, unless a different definition is specified, or the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

“[Amendment](#)” means a written agreement, signed by the Parties, which documents changes to the Grant Agreement.

“[Contract](#)” or “[Grant Agreement](#)” means the agreement entered into by the Parties, including the Signature Document, these Uniform Terms and Conditions, along with any attachments and amendments that may be issued by the System Agency.

“[Deliverables](#)” means the goods, services, and work product, including all reports and project documentation, required to be provided by Grantee to the System Agency.

“[DSHS](#)” means the Department of State Health Services.

“[Effective Date](#)” means the date on which the Grant Agreement takes effect.

“[Federal Fiscal Year](#)” means the period beginning October 1 and ending September 30 each year, which is the annual accounting period for the United States government.

“[GAAP](#)” means Generally Accepted Accounting Principles.

“[GASB](#)” means the Governmental Accounting Standards Board.

“[Grantee](#)” means the Party receiving funds under this Grant Agreement. May also be referred to as “subrecipient” or “contractor” in this document.

“[HHSC](#)” means the Texas Health and Human Services Commission.

“[Health and Human Services](#)” or “[HHS](#)” includes HHSC and DSHS.

“[Intellectual Property Rights](#)” means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such right may be evidenced by or embodied in:

- i. any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement;
- ii. any work of authorship, including any compilation, computer code, website or web page design, literary work, pictorial work, or graphic work;
- iii. any trademark, service mark, trade dress, trade name, branding, or other indicia of source or origin;
- iv. domain name registrations; and
- v. any other proprietary or similar rights. The Intellectual Property Rights of a Party include all worldwide proprietary rights or interests that the Party may have acquired by assignment, by exclusive license, or by license with the right to grant sublicenses.

“[Parties](#)” means the System Agency and Grantee, collectively.

“[Party](#)” means either the System Agency or Grantee, individually.

“[Project](#)” means specific activities of the Grantee that are supported by funds provided under this Grant Agreement.

“[Signature Document](#)” means the document executed by all Parties for this Grant Agreement.

“[Solicitation](#),” “[Funding Announcement](#)” or “[Request for Applications \(RFA\)](#)” means the document (including all exhibits, attachments, and published addenda), issued by the System Agency under which applications for grant funds were requested, which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

“[Solicitation Response](#)” or “[Application](#)” means Grantee’s full and complete Solicitation response (including any attachments and addenda), which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

“[State Fiscal Year](#)” means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

“[State of Texas Textravel](#)” means the Texas Comptroller of Public Accounts’ state travel rules, policies, and guidelines.

“[Statement of Work](#)” means the description of activities Grantee must perform to complete the Project, as specified in the Grant Agreement and as may be amended.

“[System Agency](#)” means HHSC or DSHS, as applicable.

“[Work Product](#)” means any and all works, including work papers, notes, materials, approaches, designs, specifications, systems, innovations, improvements, inventions, software, programs, source code, documentation, training materials, audio or audiovisual recordings, methodologies, concepts, studies, reports, whether finished or unfinished, and whether or not included in the deliverables, that are developed, produced, generated or provided by Grantee in connection with Grantee’s performance of its duties under the Grant Agreement or through use of any funding provided under this Grant Agreement.

“[Texas Grant Management Standards](#)” or “[TxGMS](#)” means uniform grant and contract administration procedures, developed under the authority of Chapter 783 of the Texas Government Code, to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies. Under this Grant Agreement, TxGMS applies to Grantee except as otherwise provided by applicable law or directed by System Agency. Additionally, except as otherwise provided by applicable law, in the event of a conflict between TxGMS and applicable federal or state law, federal law prevails over state law and state law prevails over TxGMS.

## 1.2 INTERPRETIVE PROVISIONS

- A. The meanings of defined terms include the singular and plural forms.
- B. The words “hereof,” “herein,” “hereunder,” and similar words refer to this Grant Agreement as a whole and not to any particular provision, section, attachment, or schedule of this Grant Agreement unless otherwise specified.
- C. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Grant Agreement, (i) references to contracts

(including this Grant Agreement) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Grant Agreement, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.

- D. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Grant Agreement are references to these documents as amended, modified, or supplemented during the term of the Grant Agreement.
- E. The captions and headings of this Grant Agreement are for convenience of reference only and do not affect the interpretation of this Grant Agreement.
- F. All attachments, including those incorporated by reference, and any Amendments are considered part of the terms of this Grant Agreement.
- G. This Grant Agreement may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative.
- H. Unless otherwise expressly provided, reference to any action of the System Agency or by the System Agency by way of consent, approval, or waiver will be deemed modified by the phrase “in its sole discretion.”
- I. Time is of the essence in this Grant Agreement.
- J. Prior to execution of the Grant Agreement, Grantee must notify System Agency’s designated contact in writing of any ambiguity, conflict, discrepancy, omission, or other error. If Grantee fails to notify the System Agency designated contact of any ambiguity, conflict, discrepancy, omission or other error in the Grant Agreement prior to Grantee’s execution of the Grant Agreement, Grantee:
  - i. Shall have waived any claim of error or ambiguity in the Grant Agreement; and
  - ii. Shall not contest the interpretation by the System Agency of such provision(s).

No grantee will be entitled to additional reimbursement, relief, or time by reason of any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error or its later correction.

## **ARTICLE II. PAYMENT PROVISIONS**

### **2.1 PROMPT PAYMENT**

Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

### **2.2 TAXES**

Grantee represents and warrants that it shall pay all taxes or similar amounts resulting from the Grant Agreement, including, but not limited to, any federal, State, or local income, sales or excise taxes of Grantee or its employees. System Agency shall not be liable for any taxes resulting from the Grant Agreement.



## **2.3 ANCILLARY AND TRAVEL EXPENSES**

- A. Except as otherwise provided in the Grant Agreement, no ancillary expenses incurred by the Grantee in connection with its provision of the services or deliverables will be reimbursed by the System Agency. Ancillary expenses include, but are not limited to, costs associated with transportation, delivery, and insurance for each deliverable.
- B. Except as otherwise provided in the Grant Agreement, when the reimbursement of travel expenses is authorized by the Grant Agreement, all such expenses will be reimbursed in accordance with the rates set by the Texas Comptroller's *Texttravel* guidelines, which can currently be accessed at: <https://fmx.cpa.texas.gov/fmx/travel/texttravel/>.

## **2.4 BILLING**

Unless otherwise provided in the Grant Agreement, Grantee shall bill the System Agency in accordance with the Grant Agreement. Unless otherwise specified in the Grant Agreement, Grantee shall submit requests for reimbursement or payment monthly by the last business day of the month following the month in which expenses were incurred or services provided. Grantee shall maintain all documentation that substantiates invoices and make the documentation available to the System Agency upon request.

## **2.5 USE OF FUNDS**

Grantee shall expend funds under this Grant Agreement only for approved services and for reasonable and allowable expenses directly related to those services.

## **2.6 USE FOR MATCH PROHIBITED**

Grantee shall not use funds provided under this Grant Agreement for matching purposes in securing other funding without the written approval of the System Agency.

## **2.7 PROGRAM INCOME**

Program income refers to gross income directly generated by a supporting activity during the period of performance. Unless otherwise required under the Grant Agreement, Grantee shall use Program Income, as provided in TxGMS, to further the Project, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report Program Income in accordance with the Grant Agreement, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Grant Agreement term, when earned, and may not carry Program Income forward to any succeeding term. Grantee shall refund Program Income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using Program Income for the purposes and under the conditions specified in this Grant Agreement.

## **2.8 NONSUPPLANTING**

Grant funds must be used to supplement existing, new or corresponding programming and related activities. Grant funds may not be used to supplant (replace) existing funds that have been appropriated, allocated, or disbursed for the same purpose. System Agency may conduct Grant monitoring or audits may be conducted to review, among other things, Grantee's compliance with this provision.

## **2.9 INDIRECT COST RATES**

The System Agency may acknowledge an indirect cost rate for Grantees that is utilized for all applicable Grant Agreements. For subrecipients receiving federal funds, indirect cost rates will be determined in accordance with applicable law including, but not limited to, 2 CFR 200.414(f). For recipients receiving state funds, indirect costs will be determined in accordance with applicable law including, but not limited to, TxGMS. Grantees funded with blended federal and state funding will be subject to both state and federal requirements when determining indirect costs. In the event of a conflict between TxGMS and applicable federal law or regulation, the provisions of federal law or regulation will apply. Grantee will provide any necessary financial documents to determine the indirect cost rate in accordance with the Uniform Grant Guidance (UGG) and TxGMS.

# **ARTICLE III. STATE AND FEDERAL FUNDING**

## **3.1 EXCESS OBLIGATIONS PROHIBITED**

This Grant Agreement is subject to termination or cancellation, without penalty to System Agency, either in whole or in part, subject to the availability and actual receipt by System Agency of state or federal funds. System Agency is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If System Agency becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render either System Agency's or Grantee's delivery or performance under the Grant Agreement impossible or unnecessary, the Grant Agreement will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, System Agency will not be liable to Grantee for any damages that are caused or associated with such termination or cancellation, and System Agency will not be required to give prior notice. Additionally, System Agency will not be liable to Grantee for any remaining unpaid funds under this Grant Agreement at time of termination.

## **3.2 NO DEBT AGAINST THE STATE**

This Grant Agreement will not be construed as creating any debt by or on behalf of the State of Texas.

## **3.3 DEBTS AND DELINQUENCIES**

Grantee agrees that any payments due under the Grant Agreement shall be directly applied towards eliminating any debt or delinquency it has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support during the entirety of the Grant Agreement term.

## **3.4 REFUNDS AND OVERPAYMENTS**

A. At its sole discretion, the System Agency may (i) withhold all or part of any payments to Grantee to offset overpayments, unallowable or ineligible costs made to the Grantee, or if any required financial status report(s) is not submitted by the due date(s); or (ii) require Grantee to promptly refund or credit - within thirty (30) calendar days of written notice – to System Agency any funds erroneously paid by System Agency which are not expressly authorized under the Grant Agreement.

- B. “Overpayments” as used in this Section include payments (i) made by the System Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Grant Agreement, including any unapproved expenditures. Grantee understands and agrees that it shall be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Grant Agreement. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Grant Agreement.

## **ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS**

### **4.1 ALLOWABLE COSTS**

- A. Allowable Costs are restricted to costs that are authorized under Texas Uniform Grant Management Standards (TxGMS) and applicable state and federal rules and laws. This Grant Agreement is subject to all applicable requirements of TxGMS, including the criteria for Allowable Costs. Additional federal requirements apply if this Grant Agreement is funded, in whole or in part, with federal funds.
- B. System Agency will reimburse Grantee for actual, allowable, and allocable costs incurred by Grantee in performing the Project, provided the costs are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Grant Agreement. At its sole discretion, the System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. The System Agency may take repayment (recoup) from remaining funds available under this Grant Agreement in amounts necessary to fulfill Grantee’s repayment obligations. Grantee and all payments received by Grantee under this Grant Agreement are subject to applicable cost principles, audit requirements, and administrative requirements including applicable provisions under 2 CFR 200, 48 CFR Part 31, and TxGMS.
- C. OMB Circulars will be applied with the modifications prescribed by TxGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

### **4.2 AUDITS AND FINANCIAL STATEMENTS**

- A. Audits
- i. Grantee understands and agrees that Grantee is subject to any and all applicable audit requirements found in state or federal law or regulation or added by this Grant Agreement
  - ii. HHS Single Audit Unit will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the form within thirty (30) calendar days after receipt of notice, Grantee maybe subject to sanctions and remedies for non-compliance.
  - iii. If Grantee, within Grantee’s fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The federal

threshold amount includes federal funds passed through by way of state agency awards.

- iv. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in state funds awarded, Grantee shall have a single audit or program-specific audit in accordance with TxGMS. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and TxGMS.
  - v. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or TxGMS, as applicable, for their program-specific audits.
  - vi. Each Grantee required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with applicable provisions of 2 CFR 200 and TxGMS.
- B. Financial Statements.  
Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements for the audit period.

#### 4.3 SUBMISSION OF AUDITS AND FINANCIAL STATEMENTS

##### A. Audits.

Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit one electronic copy of the single audit or program-specific audit to the System Agency via:

- i. HHS portal at <https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau> or,
- ii. Email to: [single\\_audit\\_report@hhsc.state.tx.us](mailto:single_audit_report@hhsc.state.tx.us).

##### B. Financial Statements.

Due no later than nine months after the Grantee's fiscal year-end, Grantees not required to submit an audit, shall submit one electronic copy of their financial statements via:

- i. HHS portal at <https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau>; or,
- ii. Email to: [single\\_audit\\_report@hhsc.state.tx.us](mailto:single_audit_report@hhsc.state.tx.us).

## ARTICLE V. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

### 5.1 WARRANTY

Grantee warrants that all work under this Grant Agreement shall be completed in a manner consistent with standards under the terms of this Grant Agreement, in the applicable trade, profession, or industry; shall conform to or exceed the specifications set forth in the Grant Agreement; and all deliverables shall be fit for ordinary use, of good quality, and with no material defects. If System Agency, in its sole discretion, determines Grantee has failed to complete work timely or to perform satisfactorily under conditions required by this Grant Agreement, the System Agency may require Grantee, at its sole expense, to:

- i. Repair or replace all defective or damaged work;
- ii. Refund any payment Grantee received from System Agency for all defective or damaged work and, in conjunction therewith, require Grantee to accept the return of such work; and,

- iii. Take necessary action to ensure that Grantee's future performance and work conform to the Grant Agreement requirements.

## **5.2 GENERAL AFFIRMATIONS**

Grantee certifies that, to the extent affirmations are incorporated into the Grant Agreement, the Grantee has reviewed the affirmations and that Grantee is in compliance with all requirements.

## **5.3 FEDERAL ASSURANCES**

Grantee further certifies that, to the extent federal assurances are incorporated into the Grant Agreement, the Grantee has reviewed the federal assurances and that Grantee is in compliance with all requirements.

## **5.4 FEDERAL CERTIFICATIONS**

Grantee further certifies that, to the extent federal certifications are incorporated into the Grant Agreement, the Grantee has reviewed the federal certifications and that Grantee is in compliance with all requirements. In addition, Grantee certifies that it is in compliance with all applicable federal laws, rules, and regulations, as they may pertain to this Grant Agreement.

## **5.5 STATE ASSURANCES**

Except to the extent of any conflict under applicable law or requirements or guidelines of any federal awarding agency from which funding for this Grant Agreement originated, the Grantee must comply with the applicable state assurances included within the TxGMS which are incorporated here by reference.

# **ARTICLE VI. INTELLECTUAL PROPERTY**

## **6.1 OWNERSHIP OF WORK PRODUCT**

- A. All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency.
- B. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Grantee hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing.
- C. Grantee agrees to execute all papers and to perform such other acts as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned.

- D. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.
- E. The foregoing does not apply to Incorporated Pre-existing Works or Third Party IP that are incorporated in the Work Product by Grantee. Grantee shall provide System Agency access during normal business hours to all Grantee materials, premises, and computer files containing the Work Product.

## 6.2 GRANTEE'S PRE-EXISTING WORKS

- A. To the extent that Grantee incorporates into the Work Product any works of Grantee that were created by Grantee or that Grantee acquired rights in prior to the Effective Date of this Grant Agreement (“**Incorporated Pre-existing Works**”), Grantee retains ownership of such Incorporated Pre-existing Works.
- B. Grantee hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, reproduce, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product.
- C. Grantee represents, warrants, and covenants to System Agency that Grantee has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

## 6.3 THIRD PARTY IP

- A. To the extent that any Third Party IP is included or incorporated in the Work Product by Grantee, Grantee hereby grants to System Agency, or shall obtain from the applicable third party for System Agency's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for System Agency's internal business or governmental purposes only, to use, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Third Party IP and any derivative works thereof embodied in or delivered to System Agency in conjunction with the Work Product, and to authorize others to do any or all of the foregoing.
- B. Grantee shall obtain System Agency's advance written approval prior to incorporating any Third Party IP into the Work Product, and Grantee shall notify System Agency on delivery of the Work Product if such materials include any Third Party IP.
- C. Grantee shall provide System Agency all supporting documentation demonstrating Grantee's compliance with this Section 6.3, including without limitation documentation indicating a third party's written approval for Grantee to use any Third Party IP that may be incorporated in the Work Product.

## 6.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS

Grantee shall have written, binding agreements with its employees and subcontractors that include provisions sufficient to give effect to and enable Grantee's compliance with Grantee's obligations under this Article VI, Intellectual Property.

## **6.5 DELIVERY UPON TERMINATION OR EXPIRATION**

No later than the first calendar day after the termination or expiration of the Grant Agreement or upon System Agency's request, Grantee shall deliver to System Agency all completed, or partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Grantee's failure to timely deliver such Work Product is a material breach of the Grant Agreement. Grantee will not retain any copies of the Work Product or any documentation or other products or results of Grantee's activities under the Grant Agreement without the prior written consent of System Agency.

## **6.6 SURVIVAL**

The provisions and obligations of this Article survive any termination or expiration of the Grant Agreement.

## **6.7 SYSTEM AGENCY DATA**

- A. As between the Parties, all data and information acquired, accessed, or made available to Grantee by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Grantee in the course of providing data processing services in connection with Grantee's performance hereunder (the "System Agency Data"), is owned solely by System Agency.
- B. Grantee has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Grantee to fulfill its obligations under the Grant Agreement or as authorized in advance in writing by System Agency.
- C. For the avoidance of doubt, Grantee is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.
- D. Grantee shall make System Agency Data available to System Agency, including to System Agency's designated vendors, as directed in writing by System Agency. The foregoing shall be at no cost to System Agency.
- E. Furthermore, the proprietary nature of Grantee's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Grantee's performance of its obligations hereunder.

# **ARTICLE VII. PROPERTY**

## **7.1 USE OF STATE PROPERTY**

- A. Grantee is prohibited from using State Property for any purpose other than performing Services authorized under the Grant Agreement.
- B. State Property includes, but is not limited to, System Agency's office space, identification badges, System Agency information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads or tablets, external hard drives, data storage devices, any System Agency-issued software, and the System Agency Virtual Private Network (VPN client)), and any other resources of System Agency.

- C. Grantee shall not remove State Property from the continental United States. In addition, Grantee may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
- D. Grantee shall not perform any maintenance services on State Property unless the Grant Agreement expressly authorizes such Services.
- E. During the time that State Property is in the possession of Grantee, Grantee shall be responsible for:
  - i. all repair and replacement charges incurred by State Agency that are associated with loss of State Property or damage beyond normal wear and tear, and
  - ii. all charges attributable to Grantee's use of State Property that exceeds the Grant Agreement scope. Grantee shall fully reimburse such charges to System Agency within ten (10) calendar days of Grantee's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Grant Agreement shall constitute breach of contract and may result in termination of the Grant Agreement and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

## **7.2 DAMAGE TO STATE PROPERTY**

- A. In the event of loss, destruction, or damage to any System Agency or State of Texas owned, leased, or occupied property or equipment by Grantee or Grantee's employees, agents, Subcontractors, or suppliers, Grantee shall be liable to System Agency and the State of Texas for the full cost of repair, reconstruction, or replacement of the lost, destroyed, or damaged property.
- B. Grantee shall notify System Agency of the loss, destruction, or damage of equipment or property within one (1) business day. Grantee shall reimburse System Agency and the State of Texas for such property damage within ten (10) calendar days after Grantee's receipt of System Agency's notice of amount due.

## **7.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT**

In the event the Grant Agreement is terminated for any reason or expires, State Property remains the property of the System Agency and must be returned to the System Agency by the earlier of the end date of the Grant Agreement or upon System Agency's request.

## **7.4 EQUIPMENT AND PROPERTY**

- A. The Grantee must ensure equipment with a per-unit cost of \$5,000 or greater purchased with grant funds under this award is used solely for the purpose of this Grant or is properly pro-rated for use under this Grant. Grantee must have control systems to prevent loss, damage, or theft of property funded under this Grant. Grantee shall maintain equipment management and inventory procedures for equipment, whether acquired in part or whole with grant funds, until disposition occurs.
- B. When equipment acquired by Grantee under this Grant Agreement is no longer needed for the original project or for other activities currently supported by System Agency, the Grantee must properly dispose of the equipment pursuant to 2 CFR and/or TxGMS, as applicable. Upon termination of this Grant Agreement, use and disposal of equipment by the Grantee shall conform with TxGMS requirements.
- C. Grantee shall initiate the purchase of all equipment approved in writing by the System Agency in accordance with the schedule approved by System Agency, as applicable.



Failure to timely initiate the purchase of equipment may result in the loss of availability of funds for the purchase of equipment. Requests to purchase previously approved equipment after the first quarter in the Grant Agreement must be submitted to the assigned System Agency contract manager.

- D. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets are considered supplies.
- E. System Agency funds must not be used to purchase buildings or real property without prior written approval from System Agency. Any costs related to the initial acquisition of the buildings or real property are not allowable without written pre-approval.

## **ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY**

### **8.1 RECORD MAINTENANCE AND RETENTION**

- A. Grantee shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Grant Agreement and all state and federal rules, regulations, and statutes.
- B. Grantee shall maintain and retain legible copies of this Grant Agreement and all records relating to the performance of the Grant Agreement, including supporting fiscal documents adequate to ensure that claims for grant funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by the Grantee for a minimum of seven (7) years after the Grant Agreement expiration date or seven (7) years after all audits, claims, litigation or disputes involving the Grant Agreement are resolved, whichever is later.

### **8.2 AGENCY'S RIGHT TO AUDIT**

- A. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Grantee pertaining to the Grant Agreement for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas.
- B. In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors shall permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Grant Agreement. If the Grant Agreement includes federal funds, federal agencies that shall have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized

representatives. In addition, agencies of the State of Texas that shall have a right of access to records as described in this section include: the System Agency, HHS's contracted examiners, the State Auditor's Office, the Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority.

- C. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Grantee shall produce original documents related to this Grant Agreement.
- D. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings.
- E. Grantee shall include this provision concerning the right of access to, and examination of, sites and information related to this Grant Agreement in any Subcontract it awards.

### **8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS**

- A. Grantee must act to ensure its and its Subcontractors' compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of the Grant Agreement and the services and Deliverables provided. Any such correction will be at Grantee's or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance shall be solely the decision of the System Agency.
- B. As part of the services, Grantee must provide to HHS upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the services and Deliverables provided to the State under the Grant Agreement.

### **8.4 STATE AUDITOR'S RIGHT TO AUDIT**

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement. The acceptance of funds directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement acts as acceptance of the authority of the state auditor, 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, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

### **8.5 CONFIDENTIALITY**

Grantee shall maintain as confidential and shall not disclose to third parties without System Agency's prior written consent, any System Agency information including but not limited to System Agency's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Grant Agreement. This requirement must be included in all subcontracts awarded by Grantee.

## ARTICLE IX. GRANT REMEDIES, TERMINATION AND PROHIBITED ACTIVITIES

### 9.1 REMEDIES

- A. To ensure Grantee's full performance of the Grant Agreement and compliance with applicable law, System Agency reserves the right to hold Grantee accountable for breach of contract or substandard performance and may take remedial or corrective actions, including, but not limited to the following:
- i. temporarily withholding cash disbursements or reimbursements pending correction of the deficiency;
  - ii. disallowing or denying use of funds for the activity or action deemed not to be in compliance;
  - iii. disallowing claims for reimbursement that may require a partial or whole return of previous payments or reimbursements;
  - iv. suspending all or part of the Grant Agreement;
  - v. requiring the Grantee to take specific actions in order to remain in compliance with the Grant Agreement;
  - vi. recouping payments made by the System Agency to the Grantee found to be in error;
  - vii. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
  - viii. prohibiting the Grantee from receiving additional funds for other grant programs administered by the System Agency until satisfactory compliance resolution is obtained;
  - ix. withholding release of new grant agreements; and
  - x. imposing any other remedies, sanctions or penalties authorized under this Grant Agreement or permitted by federal or state statute, law, regulation or rule.
- B. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended.
- C. No action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as a waiver of any other rights or remedies available to System Agency under the Grant Agreement or pursuant to law. Additionally, no action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as an acceptance, waiver, or cure of Grantee's breach. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended or after termination.

### 9.2 TERMINATION FOR CONVENIENCE

The System Agency may terminate the Grant Agreement, in whole or in part, at any time when, in its sole discretion, the System Agency determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in the System Agency's notice of termination.

### 9.3 TERMINATION FOR CAUSE

- A. Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Grant Agreement, in whole or in part, upon either of the following conditions:

**i. Material Breach**

The System Agency may terminate the Grant Agreement, in whole or in part, if the System Agency determines, in its sole discretion, that Grantee has materially breached the Grant Agreement or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, whether or not such violation prevents or substantially impairs performance of Grantee's duties under the Grant Agreement. Grantee's misrepresentation in any aspect including, but not limited to, of Grantee's Solicitation Application, if any, or Grantee's addition to the SAM exclusion list (identification in SAM as an excluded entity) may also constitute a material breach of the Grant Agreement.

**ii. Failure to Maintain Financial Viability**

The System Agency may terminate the Grant Agreement if the System Agency, in its sole discretion, determines that Grantee no longer maintains the financial viability required to complete the services and deliverables, or otherwise fully perform its responsibilities under the Grant Agreement.

- B. System Agency will specify the effective date of such termination in the notice to Grantee. If no effective date is specified, the Grant Agreement will terminate on the date of the notification.

#### **9.4 GRANTEE RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS**

If the System Agency terminates the Grant Agreement for cause, the Grantee shall be responsible to the System Agency for all costs incurred by the System Agency and the State of Texas to replace the Grantee. These costs include, but are not limited to, the costs of procuring a substitute grantee and the cost of any claim or litigation attributable to Grantee's failure to perform any work in accordance with the terms of the Grant Agreement.

#### **9.5 INHERENTLY RELIGIOUS ACTIVITIES**

Grantee may not use grant funding to engage in inherently religious activities, such as proselytizing, scripture study, or worship. Grantees may engage in inherently religious activities; however, these activities must be separate in time or location from the grant-funded program. Moreover, grantees must not compel program beneficiaries to participate in inherently religious activities. These requirements apply to all grantees, not just faith-based organizations.

#### **9.6 POLITICAL ACTIVITIES**

Grant funds cannot be used for the following activities:

- A. Grantees and their relevant sub-grantees or subcontractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying, advocating for legislation, campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties, and voter registration campaigns. Grantees may use private, or non-System Agency money or contributions for political purposes but may not charge to, or be reimbursed from, System Agency contracts or grants for the costs of such activities.
- B. Grant-funded employees may not use official authority or influence to achieve any political purpose and grant funds cannot be used for the salary, benefits, or any other compensation of an elected official.

- C. Grant funds may not be used to employ, in any capacity, a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist. Additionally, grant funds cannot be used to pay membership dues to an organization that partially or wholly pays the salary of a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist.
- D. As applicable, Grantee will comply with 31 USC § 1352, relating to the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.

## **ARTICLE X. INDEMNITY**

### **10.1 GENERAL INDEMNITY**

- A. GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE GRANT AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE GRANT AGREEMENT.**
- B. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.**
- C. For the avoidance of doubt, System Agency shall not indemnify Grantee or any other entity under the Grant Agreement.**

### **10.2 INTELLECTUAL PROPERTY**

**GRANTEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE SYSTEM AGENCY AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM:**

- i. THE PERFORMANCE OR ACTIONS OF GRANTEE PURSUANT TO THIS GRANT AGREEMENT;**
- ii. ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR**
- iii. SYSTEM AGENCY'S AND/OR GRANTEE'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO SYSTEM AGENCY BY GRANTEE OR OTHERWISE TO WHICH SYSTEM**

**AGENCY HAS ACCESS AS A RESULT OF GRANTEE'S PERFORMANCE UNDER THE GRANT AGREEMENT.**

**10.3 ADDITIONAL INDEMNITY PROVISIONS**

- A. GRANTEE AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY INDEMNITY CLAIM. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES.**
- B. THE DEFENSE SHALL BE COORDINATED BY THE GRANTEE WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL.**
- C. GRANTEE SHALL REIMBURSE SYSTEM AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE SYSTEM AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF GRANTEE OR IF SYSTEM AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, SYSTEM AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND GRANTEE SHALL PAY ALL REASONABLE COSTS OF SYSTEM AGENCY'S COUNSEL.**

**ARTICLE XI. GENERAL PROVISIONS**

**11.1 AMENDMENTS**

Except as otherwise expressly provided, the Grant Agreement may only be amended by a written Amendment executed by both Parties.

**11.2 NO QUANTITY GUARANTEES**

The System Agency makes no guarantee of volume or usage of work under this Grant Agreement. All work requested may be on an irregular and as needed basis throughout the Grant Agreement term.

**11.3 CHILD ABUSE REPORTING REQUIREMENTS**

- A. Grantees shall comply with child abuse and neglect reporting requirements in Texas Family Code Chapter 261. This section is in addition to and does not supersede any other legal obligation of the Grantee to report child abuse.**
- B. Grantee shall use the Texas Abuse Hotline Website located at <https://www.txabusehotline.org/Login/Default.aspx> as required by the System Agency. Grantee shall retain reporting documentation on site and make it available for inspection by the System Agency.**

#### **11.4 CERTIFICATION OF MEETING OR EXCEEDING TOBACCO-FREE WORKPLACE POLICY MINIMUM STANDARDS**

- A. Grantee certifies that it has adopted and enforces a Tobacco-Free Workplace Policy that meets or exceeds all of the following minimum standards of:
- i. Prohibiting the use of all forms of tobacco products, including but not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff and chewing tobacco;
  - ii. Designating the property to which this Policy applies as a "designated area," which must at least comprise all buildings and structures where activities funded under this Grant Agreement are taking place, as well as Grantee owned, leased, or controlled sidewalks, parking lots, walkways, and attached parking structures immediately adjacent to this designated area;
  - iii. Applying to all employees and visitors in this designated area; and
  - iv. Providing for or referring its employees to tobacco use cessation services.
- B. If Grantee cannot meet these minimum standards, it must obtain a waiver from the System Agency.

#### **11.5 INSURANCE AND BONDS**

Unless otherwise specified in this Contract, Grantee shall acquire and maintain, for the duration of this Contract, insurance coverage necessary to ensure proper fulfillment of this Contract and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry as determined by the System Agency. Grantee shall provide evidence of insurance as required under this Contract, including a schedule of coverage or underwriter's schedules establishing to the satisfaction of the System Agency the nature and extent of coverage granted by each such policy, upon request by the System Agency. In the event that any policy is determined by the System Agency to be deficient to comply with the terms of this Contract, Grantee shall secure such additional policies or coverage as the System Agency may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Grantee must produce renewal certificates for each type of coverage. In addition, if required by System Agency, Grantee must obtain and have on file a blanket fidelity bond that indemnifies System Agency against the loss or theft of any grant funds, including applicable matching funds. The fidelity bond must cover the entirety of the grant term and any subsequent renewals. The failure of Grantee to comply with these requirements may subject Grantee to remedial or corrective actions detailed in section 10.1, General Indemnity, above.

These and all other insurance requirements under the Grant apply to both Grantee and its Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

#### **11.6 LIMITATION ON AUTHORITY**

- A. Grantee shall not have any authority to act for or on behalf of the System Agency or the State of Texas except as expressly provided for in the Grant Agreement; no other authority, power, or use is granted or implied. Grantee may not incur any debt,

obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.

- B. Grantee may not rely upon implied authority and is not granted authority under the Grant Agreement to:
- i. Make public policy on behalf of the System Agency;
  - ii. Promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of a System Agency program; or
  - iii. Unilaterally communicate or negotiate with any federal or state agency or the Texas Legislature on behalf of the System Agency regarding System Agency programs or the Grant Agreement. However, upon System Agency request and with reasonable notice from System Agency to the Grantee, the Grantee shall assist the System Agency in communications and negotiations regarding the Work under the Grant Agreement with state and federal governments.

### **11.7 CHANGE IN LAWS AND COMPLIANCE WITH LAWS**

Grantee shall comply with all laws, regulations, requirements and guidelines applicable to a Grantee providing services and products required by the Grant Agreement to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended throughout the term of the Grant Agreement. Notwithstanding Section 11.1, Amendments, above, System Agency reserves the right, in its sole discretion, to unilaterally amend the Grant Agreement to incorporate any modifications necessary for System Agency's compliance, as an agency of the State of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.

### **11.8 SUBCONTRACTORS**

Grantee may not subcontract any or all of the Work and/or obligations under the Grant Agreement without prior written approval of the System Agency. Subcontracts, if any, entered into by the Grantee shall be in writing and be subject to the requirements of the Grant Agreement. Should Grantee subcontract any of the services required in the Grant Agreement, Grantee expressly understands and acknowledges System Agency is in no manner liable to any subcontractor(s) of Grantee. In no event shall this provision relieve Grantee of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Grant Agreement.

### **11.9 PERMITTING AND LICENSURE**

At Grantee's sole expense, Grantee shall procure and maintain for the duration of this Grant Agreement any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Grantee to provide the goods or services required by this Grant Agreement. Grantee shall be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee shall be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Grant Agreement.

### **11.10 INDEPENDENT CONTRACTOR**

Grantee and Grantee's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services



under the Grant Agreement. Neither Grantee nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. The Grantee is not a "governmental body" solely by virtue of this Grant Agreement or receipt of grant funds under this Grant Agreement. Grantee shall have no claim against System Agency for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The Grant Agreement shall not create any joint venture, partnership, agency, or employment relationship between Grantee and System Agency.

#### **11.11 GOVERNING LAW AND VENUE**

The Grant Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Grant Agreement is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the System Agency.

#### **11.12 SEVERABILITY**

If any provision contained in this Grant Agreement is held to be unenforceable by a court of law or equity, such construction will not affect the legality, validity, or enforceability of any other provision or provisions of this Grant Agreement. It is the intent and agreement of the Parties this Grant Agreement shall be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting another provision that is valid, legal and enforceable and that achieves the same objective. All other provisions of this Grant Agreement will continue in full force and effect.

#### **11.13 SURVIVABILITY**

Expiration or termination of the Grant Agreement for any reason does not release Grantee from any liability or obligation set forth in the Grant Agreement that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of the Grant Agreement, including without limitation the provisions regarding return of grant funds, audit requirements, records retention, public information, warranty, indemnification, confidentiality, and rights and remedies upon termination.

#### **11.14 FORCE MAJEURE**

Neither Grantee nor System Agency shall be liable to the other for any delay in, or failure of performance, of any requirement included in the Grant Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.

### **11.15 NO IMPLIED WAIVER OF PROVISIONS**

The failure of the System Agency to object to or to take affirmative action with respect to any conduct of the Grantee which is in violation or breach of the terms of the Grant Agreement shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

### **11.16 FUNDING DISCLAIMERS AND LABELING**

- A. Grantee shall not use System Agency's name or refer to System Agency directly or indirectly in any media appearance, public service announcement, or disclosure relating to this Grant Agreement including any promotional material without first obtaining written consent from System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Grantee's or a third party's products, services, workshops, trainings, or other commercial offerings on any website portal or internet-based service or software application hosted or managed by Grantee. This does not limit the Grantee's responsibility to comply with obligations related to the Texas Public Information Act or Texas Open Meetings Act.
- B. In general, no publication (including websites, reports, projects, etc.) may convey System Agency's recognition or endorsement of the Grantee's project without prior written approval from System Agency. Publications funded in part or wholly by HHS grant funding must include a statement that "HHS and neither any of its components operate, control, are responsible for, or necessarily endorse, this publication (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)" at HHS's request.

### **11.17 MEDIA RELEASES**

- A. Grantee shall not use System Agency's name, logo, or other likeness in any press release, marketing material or other announcement without System Agency's prior written approval. System Agency does not endorse any vendor, commodity, or service. Grantee is not authorized to make or participate in any media releases or public announcements pertaining to this Grant Agreement or the Services to which they relate without System Agency's prior written consent, and then only in accordance with explicit written instruction from System Agency.
- B. Grantee may publish, at its sole expense, results of Grantee performance under the Grant Agreement with the System Agency's prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.

### **11.18 PROHIBITION ON NON-COMPETE RESTRICTIONS**

Grantee shall not require any employees or Subcontractors to agree to any conditions, such as non-compete clauses or other contractual arrangements, that would limit or restrict such persons or entities from employment or contracting with the State of Texas.

### **11.19 SOVEREIGN IMMUNITY**

Nothing in the Grant Agreement will be construed as a waiver of the System Agency's or the State's sovereign immunity. This Grant Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the

System Agency or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas under the Grant Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. System Agency does not waive any privileges, rights, defenses, or immunities available to System Agency by entering into the Grant Agreement or by its conduct prior to or subsequent to entering into the Grant Agreement.

#### **11.20 ENTIRE CONTRACT AND MODIFICATION**

The Grant Agreement constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any future document incorporated into the Grant Agreement will be harmonized with this Grant Agreement to the extent possible.

#### **11.21 COUNTERPARTS**

This Grant Agreement may be executed in any number of counterparts, each of which will be an original, and all such counterparts will together constitute but one and the same Grant Agreement.

#### **11.22 PROPER AUTHORITY**

Each Party represents and warrants that the person executing this Grant Agreement on its behalf has full power and authority to enter into this Grant Agreement.

#### **11.23 E-VERIFY PROGRAM**

Grantee certifies that it utilizes and will continue to utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

- A. all persons employed to perform duties within Texas during the term of the Grant Agreement; and
- B. all persons, (including subcontractors) assigned by the Grantee to perform work pursuant to the Grant Agreement within the United States of America.

#### **11.24 CIVIL RIGHTS**

- A. Grantee agrees to comply with state and federal anti-discrimination laws, including:
  - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.);
  - ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
  - iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.);
  - iv. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
  - v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
  - vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011 et seq.); and
  - vii. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Grant Agreement.
- B. Grantee agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from

- participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.
- C. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
- D. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <https://hhs.texas.gov/about-hhs/your-rights/civil-rights-office/civil-rights-posters>.
- E. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.
- G. Grantee must notify HHSC's Civil Rights Office of any complaints of discrimination received relating to its performance under this Grant Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:
- HHSC Civil Rights Office  
701 W. 51st Street, Mail Code W206  
Austin, Texas 78751  
Phone Toll Free: (888) 388-6332  
Phone: (512) 438-4313  
Fax: (512) 438-5885  
Email: [HHSCivilRightsOffice@hhsc.state.tx.us](mailto:HHSCivilRightsOffice@hhsc.state.tx.us).

## **11.25 ENTERPRISE INFORMATION MANAGEMENT STANDARDS**

Grantee shall conform to HHS standards for data management as described by the policies of the HHS Office of Data, Analytics, and Performance. These include, but are not limited to, standards for documentation and communication of data models, metadata, and other data definition methods that are required by HHS for ongoing data governance, strategic portfolio analysis, interoperability planning, and valuation of HHS System data assets.

## **11.26 DISCLOSURE OF LITIGATION**

- A. The Grantee must disclose in writing to the contract manager assigned to this Grant Agreement any material civil or criminal litigation or indictment either threatened or

pending involving the Grantee. “Threatened litigation” as used herein shall include governmental investigations and civil investigative demands. “Litigation” as used herein shall include administrative enforcement actions brought by governmental agencies. The Grantee must also disclose any material litigation threatened or pending involving Subcontractors, consultants, and/or lobbyists. For purposes of this section, “material” refers, but is not limited, to any action or pending action that a reasonable person knowledgeable in the applicable industry would consider relevant to the Work under the Grant Agreement or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the Work, together with any litigation threatened or pending that may result in a substantial change in the Grantee’s financial condition.

- B. This is a continuing disclosure requirement; any litigation commencing after Grant Agreement Award must be disclosed in a written statement to the assigned contract manager within seven calendar days of its occurrence.

#### **11.27 NO THIRD PARTY BENEFICIARIES**

The Grant Agreement is made solely and specifically among and for the benefit of the Parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the Grant Agreement as a third-party beneficiary or otherwise.

#### **11.28 BINDING EFFECT**

The Grant Agreement shall inure to the benefit of, be binding upon, and be enforceable against each Party and their respective permitted successors, assigns, transferees, and delegates.

**ATTACHMENT E**

**HHS DATA USE AGREEMENT**

This Data Use Agreement (“DUA”), effective as of the date the Base Contract into which it is incorporated is signed (“Effective Date”), is entered into by and between a Texas Health and Human Services Enterprise agency (“HHS”), and the Contractor identified in the Base Contract, a political subdivision of the State of Texas (“CONTRACTOR).

**ARTICLE 1.**

**PURPOSE; APPLICABILITY; ORDER OF PRECEDENCE**

The purpose of this DUA is to facilitate creation, receipt, maintenance, use, disclosure or access to Confidential Information with CONTRACTOR, and describe CONTRACTOR’s rights and obligations with respect to the Confidential Information. *45 CFR 164.504(e)(1)-(3)*. This DUA also describes HHS’s remedies in the event of CONTRACTOR’s noncompliance with its obligations under this DUA. This DUA applies to both Business Associates and contractors who are not Business Associates who create, receive, maintain, use, disclose or have access to Confidential Information on behalf of HHS, its programs or clients as described in the Base Contract.

As of the Effective Date of this DUA, if any provision of the Base Contract, including any General Provisions or Uniform Terms and Conditions, conflicts with this DUA, this DUA controls.

**ARTICLE 2.**

**DEFINITIONS**

For the purposes of this DUA, capitalized, underlined terms have the meanings set forth in the following: Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (42 U.S.C. §1320d, *et seq.*) and regulations thereunder in 45 CFR Parts 160 and 164, including all amendments, regulations and guidance issued thereafter; The Social Security Act, including Section 1137 (42 U.S.C. §§ 1320b-7), Title XVI of the Act; The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a and regulations and guidance thereunder; Internal Revenue Code, Title 26 of the United States Code and regulations and publications adopted under that code, including IRS Publication 1075; OMB Memorandum 07-18; Texas Business and Commerce Code Ch. 521; Texas Government Code, Ch. 552, and Texas Government Code §2054.1125. In addition, the following terms in this DUA are defined as follows:

“**Authorized Purpose**” means the specific purpose or purposes described in the Statement of Work of the Base Contract for CONTRACTOR to fulfill its obligations under the Base Contract, or any other purpose expressly authorized by HHS in writing in advance.

“**Authorized User**” means a Person:

(1) Who is authorized to create, receive, maintain, have access to, process, view, handle, examine, interpret, or analyze Confidential Information pursuant to this DUA;

(2) For whom CONTRACTOR warrants and represents has a demonstrable need to create, receive, maintain, use, disclose or have access to the Confidential Information; and

(3) Who has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information as required by this DUA.

**“Confidential Information”** means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR, or that CONTRACTOR may, for an Authorized Purpose, create, receive, maintain, use, disclose or have access to, that consists of or includes any or all of the following:

- (1) Client Information;
- (2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information (herein “PHI”);
- (3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;
- (4) Federal Tax Information;
- (5) Individually Identifiable Health Information as related to HIPAA, Texas HIPAA and Personal Identifying Information under the Texas Identity Theft Enforcement and Protection Act;
- (6) Social Security Administration Data, including, without limitation, Medicaid information;
- (7) All privileged work product;
- (8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

**“Legally Authorized Representative”** of the Individual, as defined by Texas law, including as provided in 45 CFR 435.923 (Medicaid); 45 CFR 164.502(g)(1) (HIPAA); Tex. Occ. Code § 151.002(6); Tex. H. & S. Code §166.164; and Estates Code Ch. 752.

### **ARTICLE 3.**

#### **CONTRACTOR'S DUTIES REGARDING CONFIDENTIAL INFORMATION**

##### **3.01 Obligations of CONTRACTOR**

CONTRACTOR agrees that:

(A) CONTRACTOR will exercise reasonable care and no less than the same degree of care CONTRACTOR uses to protect its own confidential, proprietary and trade secret information to prevent any portion of the Confidential Information from being used in

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a manner that is not expressly an Authorized Purpose under this DUA or as Required by Law. **45 CFR 164.502(b)(1); 45 CFR 164.514(d)**

(B) Except as Required by Law, CONTRACTOR will not disclose or allow access to any portion of the Confidential Information to any Person or other entity, other than Authorized User's Workforce or Subcontractors (as defined in **45 C.F.R. 160.103**) of CONTRACTOR who have completed training in confidentiality, privacy, security and the importance of promptly reporting any Event or Breach to CONTRACTOR's management, to carry out CONTRACTOR's obligations in connection with the Authorized Purpose.

HHS, at its election, may assist CONTRACTOR in training and education on specific or unique HHS processes, systems and/or requirements. CONTRACTOR will produce evidence of completed training to HHS upon request. **45 C.F.R. 164.308(a)(5)(i); Texas Health & Safety Code §181.101**

All of CONTRACTOR's Authorized Users, Workforce and Subcontractors with access to a state computer system or database will complete a cybersecurity training program certified under Texas Government Code Section 2054.519 by the Texas Department of Information Resources.

(C) CONTRACTOR will establish, implement and maintain appropriate sanctions against any member of its Workforce or Subcontractor who fails to comply with this DUA, the Base Contract or applicable law. CONTRACTOR will maintain evidence of sanctions and produce it to HHS upon request. **45 C.F.R. 164.308(a)(1)(ii)(C); 164.530(e); 164.410(b); 164.530(b)(1)**

(D) CONTRACTOR will not, except as otherwise permitted by this DUA, disclose or provide access to any Confidential Information on the basis that such act is Required by Law without notifying either HHS or CONTRACTOR's own legal counsel to determine whether CONTRACTOR should object to the disclosure or access and seek appropriate relief. CONTRACTOR will maintain an accounting of all such requests for disclosure and responses and provide such accounting to HHS within 48 hours of HHS' request. **45 CFR 164.504(e)(2)(ii)(A)**

(E) CONTRACTOR will not attempt to re-identify or further identify Confidential Information or De-identified Information, or attempt to contact any Individuals whose records are contained in the Confidential Information, except for an Authorized Purpose, without express written authorization from HHS or as expressly permitted by the Base Contract. **45 CFR 164.502(d)(2)(i) and (ii)** CONTRACTOR will not engage in prohibited marketing or sale of Confidential Information. **45 CFR 164.501, 164.508(a)(3) and (4); Texas Health & Safety Code Ch. 181.002**

(F) CONTRACTOR will not permit, or enter into any agreement with a Subcontractor to, create, receive, maintain, use, disclose, have access to or transmit Confidential Information to carry out CONTRACTOR's obligations in connection with the Authorized Purpose on behalf of CONTRACTOR, unless Subcontractor agrees to comply with all applicable laws, rules and regulations. **45 CFR 164.502(e)(1)(ii); 164.504(e)(1)(i) and (2).**



(G) CONTRACTOR is directly responsible for compliance with, and enforcement of, all conditions for creation, maintenance, use, disclosure, transmission and Destruction of Confidential Information and the acts or omissions of Subcontractors as may be reasonably necessary to prevent unauthorized use. **45 CFR 164.504(e)(5); 42 CFR 431.300, et seq.**

(H) If CONTRACTOR maintains PHI in a Designated Record Set which is Confidential Information and subject to this Agreement, CONTRACTOR will make PHI available to HHS in a Designated Record Set upon request. CONTRACTOR will provide PHI to an Individual, or Legally Authorized Representative of the Individual who is requesting PHI in compliance with the requirements of the HIPAA Privacy Regulations. CONTRACTOR will release PHI in accordance with the HIPAA Privacy Regulations upon receipt of a valid written authorization. CONTRACTOR will make other Confidential Information in CONTRACTOR's possession available pursuant to the requirements of HIPAA or other applicable law upon a determination of a Breach of Unsecured PHI as defined in HIPAA. CONTRACTOR will maintain an accounting of all such disclosures and provide it to HHS within 48 hours of HHS' request. **45 CFR 164.524 and 164.504(e)(2)(ii)(E).**

(I) If PHI is subject to this Agreement, CONTRACTOR will make PHI as required by HIPAA available to HHS for review subsequent to CONTRACTOR's incorporation of any amendments requested pursuant to HIPAA. **45 CFR 164.504(e)(2)(ii)(E) and (F).**

(J) If PHI is subject to this Agreement, CONTRACTOR will document and make available to HHS the PHI required to provide access, an accounting of disclosures or amendment in compliance with the requirements of the HIPAA Privacy Regulations. **45 CFR 164.504(e)(2)(ii)(G) and 164.528.**

(K) If CONTRACTOR receives a request for access, amendment or accounting of PHI from an individual with a right of access to information subject to this DUA, it will respond to such request in compliance with the HIPAA Privacy Regulations. CONTRACTOR will maintain an accounting of all responses to requests for access to or amendment of PHI and provide it to HHS within 48 hours of HHS' request. **45 CFR 164.504(e)(2).**

(L) CONTRACTOR will provide, and will cause its Subcontractors and agents to provide, to HHS periodic written certifications of compliance with controls and provisions relating to information privacy, security and breach notification, including without limitation information related to data transfers and the handling and disposal of Confidential Information. **45 CFR 164.308; 164.530(c); 1 TAC 202.**

(M) Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may use PHI for the proper management and administration of CONTRACTOR or to carry out CONTRACTOR's legal responsibilities. Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may disclose PHI for the

proper management and administration of CONTRACTOR, or to carry out CONTRACTOR's legal responsibilities, if: **45 CFR 164.504(e)(4)(A)**.

(1) Disclosure is Required by Law, provided that CONTRACTOR complies with Section 3.01(D); or

(2) CONTRACTOR obtains reasonable assurances from the person or entity to which the information is disclosed that the person or entity will:

(a) Maintain the confidentiality of the Confidential Information in accordance with this DUA;

(b) Use or further disclose the information only as Required by Law or for the Authorized Purpose for which it was disclosed to the Person; and

(c) Notify CONTRACTOR in accordance with Section 4.01 of any Event or Breach of Confidential Information of which the Person discovers or should have discovered with the exercise of reasonable diligence. **45 CFR 164.504(e)(4)(ii)(B)**.

(N) Except as otherwise limited by this DUA, CONTRACTOR will, if required by law and requested by HHS, use commercially reasonable efforts to use PHI to provide data aggregation services to HHS, as that term is defined in the HIPAA, 45 C.F.R. §164.501 and permitted by HIPAA. **45 CFR 164.504(e)(2)(i)(B)**

(O) CONTRACTOR will, on the termination or expiration of this DUA or the Base Contract, at its expense, send to HHS or Destroy, at HHS's election and to the extent reasonably feasible and permissible by law, all Confidential Information received from HHS or created or maintained by CONTRACTOR or any of CONTRACTOR's agents or Subcontractors on HHS's behalf if that data contains Confidential Information. CONTRACTOR will certify in writing to HHS that all the Confidential Information that has been created, received, maintained, used by or disclosed to CONTRACTOR, has been Destroyed or sent to HHS, and that CONTRACTOR and its agents and Subcontractors have retained no copies thereof. Notwithstanding the foregoing, HHS acknowledges and agrees that CONTRACTOR is not obligated to send to HHS and/or Destroy any Confidential Information if federal law, state law, the Texas State Library and Archives Commission records retention schedule, and/or a litigation hold notice prohibit such delivery or Destruction. If such delivery or Destruction is not reasonably feasible, or is impermissible by law, CONTRACTOR will immediately notify HHS of the reasons such delivery or Destruction is not feasible, and agree to extend indefinitely the protections of this DUA to the Confidential Information and limit its further uses and disclosures to the purposes that make the return delivery or Destruction of the Confidential Information not feasible for as long as CONTRACTOR maintains such Confidential Information. **45 CFR 164.504(e)(2)(ii)(J)**

(P) CONTRACTOR will create, maintain, use, disclose, transmit or Destroy Confidential Information in a secure fashion that protects against any reasonably anticipated

threats or hazards to the security or integrity of such information or unauthorized uses. **45 CFR 164.306; 164.530(c)**

(Q) If CONTRACTOR accesses, transmits, stores, and/or maintains Confidential Information, CONTRACTOR will complete and return to HHS at infosecurity@hhsc.state.tx.us the HHS information security and privacy initial inquiry (SPI) at Attachment 1 . The SPI identifies basic privacy and security controls with which CONTRACTOR must comply to protect HHS Confidential Information. CONTRACTOR will comply with periodic security controls compliance assessment and monitoring by HHS as required by state and federal law, based on the type of Confidential Information CONTRACTOR creates, receives, maintains, uses, discloses or has access to and the Authorized Purpose and level of risk. CONTRACTOR's security controls will be based on the National Institute of Standards and Technology (NIST) Special Publication 800-53. CONTRACTOR will update its security controls assessment whenever there are significant changes in security controls for HHS Confidential Information and will provide the updated document to HHS. HHS also reserves the right to request updates as needed to satisfy state and federal monitoring requirements. **45 CFR 164.306.**

(R) CONTRACTOR will establish, implement and maintain reasonable procedural, administrative, physical and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information, and with respect to PHI, as described in the HIPAA Privacy and Security Regulations, or other applicable laws or regulations relating to Confidential Information, to prevent any unauthorized use or disclosure of Confidential Information as long as CONTRACTOR has such Confidential Information in its actual or constructive possession. **45 CFR 164.308 (administrative safeguards); 164.310 (physical safeguards); 164.312 (technical safeguards); 164.530(c)(privacy safeguards).**

(S) CONTRACTOR will designate and identify, a Person or Persons, as Privacy Official **45 CFR 164.530(a)(1)** and Information Security Official, each of whom is authorized to act on behalf of CONTRACTOR and is responsible for the development and implementation of the privacy and security requirements in this DUA. CONTRACTOR will provide name and current address, phone number and e-mail address for such designated officials to HHS upon execution of this DUA and prior to any change. If such persons fail to develop and implement the requirements of the DUA, CONTRACTOR will replace them upon HHS request. **45 CFR 164.308(a)(2).**

(T) CONTRACTOR represents and warrants that its Authorized Users each have a demonstrated need to know and have access to Confidential Information solely to the minimum extent necessary to accomplish the Authorized Purpose pursuant to this DUA and the Base Contract, and further, that each has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information contained in this DUA. **45 CFR 164.502; 164.514(d).**

(U) CONTRACTOR and its Subcontractors will maintain an updated, complete, accurate and numbered list of Authorized Users, their signatures, titles and the date they

agreed to be bound by the terms of this DUA, at all times and supply it to HHS, as directed, upon request.

(V) CONTRACTOR will implement, update as necessary, and document reasonable and appropriate policies and procedures for privacy, security and Breach of Confidential Information and an incident response plan for an Event or Breach, to comply with the privacy, security and breach notice requirements of this DUA prior to conducting work under the Statement of Work. **45 CFR 164.308; 164.316; 164.514(d); 164.530(i)(1).**

(W) CONTRACTOR will produce copies of its information security and privacy policies and procedures and records relating to the use or disclosure of Confidential Information received from, created by, or received, used or disclosed by CONTRACTOR for an Authorized Purpose for HHS's review and approval within 30 days of execution of this DUA and upon request by HHS the following business day or other agreed upon time frame. **45 CFR 164.308; 164.514(d).**

(X) CONTRACTOR will make available to HHS any information HHS requires to fulfill HHS's obligations to provide access to, or copies of, PHI in accordance with HIPAA and other applicable laws and regulations relating to Confidential Information. CONTRACTOR will provide such information in a time and manner reasonably agreed upon or as designated by the Secretary of the U.S. Department of Health and Human Services, or other federal or state law. **45 CFR 164.504(e)(2)(i)(I).**

(Y) CONTRACTOR will only conduct secure transmissions of Confidential Information whether in paper, oral or electronic form, in accordance with applicable rules, regulations and laws. A secure transmission of electronic Confidential Information in motion includes, but is not limited to, Secure File Transfer Protocol (SFTP) or Encryption at an appropriate level. If required by rule, regulation or law, HHS Confidential Information at rest requires Encryption unless there is other adequate administrative, technical, and physical security. All electronic data transfer and communications of Confidential Information will be through secure systems. Proof of system, media or device security and/or Encryption must be produced to HHS no later than 48 hours after HHS's written request in response to a compliance investigation, audit or the Discovery of an Event or Breach. Otherwise, requested production of such proof will be made as agreed upon by the parties. De-identification of HHS Confidential Information is a means of security. With respect to de-identification of PHI, "secure" means de-identified according to HIPAA Privacy standards and regulatory guidance. **45 CFR 164.312; 164.530(d).**

(Z) For each type of Confidential Information CONTRACTOR creates, receives, maintains, uses, discloses, has access to or transmits in the performance of the Statement of Work, CONTRACTOR will comply with the following laws rules and regulations, only to the extent applicable and required by law:

- Title 1, Part 10, Chapter 202, Subchapter B, Texas Administrative Code;
- The Privacy Act of 1974;

- OMB Memorandum 07-16;
- The Federal Information Security Management Act of 2002 (FISMA);
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA) as defined in the DUA;
- Internal Revenue Publication 1075 – Tax Information Security Guidelines for Federal, State and Local Agencies;
- National Institute of Standards and Technology (NIST) Special Publication 800-66 Revision 1 – An Introductory Resource Guide for Implementing the Health Insurance Portability and Accountability Act (HIPAA) Security Rule;
- NIST Special Publications 800-53 and 800-53A – Recommended Security Controls for Federal Information Systems and Organizations, as currently revised;
- NIST Special Publication 800-47 – Security Guide for Interconnecting Information Technology Systems;
- NIST Special Publication 800-88, Guidelines for Media Sanitization;
- NIST Special Publication 800-111, Guide to Storage of Encryption Technologies for End User Devices containing PHI; and

Any other State or Federal law, regulation, or administrative rule relating to the specific HHS program area that CONTRACTOR supports on behalf of HHS.

(AA) Notwithstanding anything to the contrary herein, CONTRACTOR will treat any Personal Identifying Information it creates, receives, maintains, uses, transmits, destroys and/or discloses in accordance with Texas Business and Commerce Code, Chapter 521 and other applicable regulatory standards identified in Section 3.01(Z), and Individually Identifiable Health Information CONTRACTOR creates, receives, maintains, uses, transmits, destroys and/or discloses in accordance with HIPAA and other applicable regulatory standards identified in Section 3.01(Z).

#### **ARTICLE 4.**

#### **BREACH NOTICE, REPORTING AND CORRECTION REQUIREMENTS**

##### **4.01 Breach or Event Notification to HHS. 45 CFR 164.400-414.**

(A) CONTRACTOR will cooperate fully with HHS in investigating, mitigating to the extent practicable and issuing notifications directed by HHS, for any Event or Breach of Confidential Information to the extent and in the manner determined by HHS.

(B) CONTRACTOR'S obligation begins at the Discovery of an Event or Breach and continues as long as related activity continues, until all effects of the Event are mitigated to HHS's reasonable satisfaction (the "incident response period"). **45 CFR 164.404.**

(C) Breach Notice:

(1) Initial Notice.

(a) For federal information, including without limitation, Federal Tax Information, Social Security Administration Data, and Medicaid Client Information, within the first, consecutive clock hour of Discovery, and for all other types of Confidential Information not more than 24 hours after Discovery, or in a timeframe otherwise approved by HHS in writing, initially report to HHS's Privacy and Security Officers via email at: [privacy@HHSC.state.tx.us](mailto:privacy@HHSC.state.tx.us) and to the HHS division responsible for this DUA; and IRS Publication 1075; Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a; OMB Memorandum 07-16 as cited in HHSC-CMS Contracts for information exchange.

(b) Report all information reasonably available to CONTRACTOR about the Event or Breach of the privacy or security of Confidential Information. **45 CFR 164.410.**

(c) Name, and provide contact information to HHS for, CONTRACTOR's single point of contact who will communicate with HHS both on and off business hours during the incident response period.

(2) Formal Notice. No later than two business days after the Initial Notice above, provide formal notification to [privacy@HHSC.state.tx.us](mailto:privacy@HHSC.state.tx.us) and to the HHS division responsible for this DUA, including all reasonably available information about the Event or Breach, and CONTRACTOR's investigation, including without limitation and to the extent available: **For (a) - (m) below: 45 CFR 164.400-414.**

(a) The date the Event or Breach occurred;

(b) The date of CONTRACTOR's and, if applicable, Subcontractor's Discovery;

(c) A brief description of the Event or Breach; including how it occurred and who is responsible (or hypotheses, if not yet determined);

(d) A brief description of CONTRACTOR's investigation and the status of the investigation;

(e) A description of the types and amount of Confidential Information involved;

(f) Identification of and number of all Individuals reasonably believed to be affected, including first and last name of the Individual and if applicable the, Legally Authorized Representative, last known address, age, telephone number, and email address if it is a preferred contact method, to the extent known or can be reasonably determined by CONTRACTOR at that time;

(g) CONTRACTOR's initial risk assessment of the Event or Breach demonstrating whether individual or other notices are required by applicable law or this DUA for HHS approval, including an analysis of whether there is a low probability of compromise of the Confidential Information or whether any legal exceptions to notification apply;

(h) CONTRACTOR's recommendation for HHS's approval as to the steps Individuals and/or CONTRACTOR on behalf of Individuals, should take to protect the Individuals from potential harm, including without limitation CONTRACTOR's provision of notifications, credit protection, claims monitoring, and any specific protections for a Legally Authorized Representative to take on behalf of an Individual with special capacity or circumstances;

(i) The steps CONTRACTOR has taken to mitigate the harm or potential harm caused (including without limitation the provision of sufficient resources to mitigate);

(j) The steps CONTRACTOR has taken, or will take, to prevent or reduce the likelihood of recurrence of a similar Event or Breach;

(k) Identify, describe or estimate the Persons, Workforce, Subcontractor, or Individuals and any law enforcement that may be involved in the Event or Breach;

(l) A reasonable schedule for CONTRACTOR to provide regular updates during normal business hours to the foregoing in the future for response to the Event or Breach, but no less than every three (3) business days or as otherwise directed by HHS, including information about risk estimations, reporting, notification, if any, mitigation, corrective action, root cause analysis and when such activities are expected to be completed; and

(m) Any reasonably available, pertinent information, documents or reports related to an Event or Breach that HHS requests following Discovery.

#### **4.02 Investigation, Response and Mitigation. 45 CFR 164.308, 310 and 312; 164.530**

(A) CONTRACTOR will immediately conduct a full and complete investigation, respond to the Event or Breach, commit necessary and appropriate staff and resources to

expeditiously respond, and report as required to and by HHS for incident response purposes and for purposes of HHS's compliance with report and notification requirements, to the reasonable satisfaction of HHS.

(B) CONTRACTOR will complete or participate in a risk assessment as directed by HHS following an Event or Breach, and provide the final assessment, corrective actions and mitigations to HHS for review and approval.

(C) CONTRACTOR will fully cooperate with HHS to respond to inquiries and/or proceedings by state and federal authorities, Persons and/or Individuals about the Event or Breach.

(D) CONTRACTOR will fully cooperate with HHS's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such Event or Breach, or to recover or protect any Confidential Information, including complying with reasonable corrective action or measures, as specified by HHS in a Corrective Action Plan if directed by HHS under the Base Contract.

**4.03 Breach Notification to Individuals and Reporting to Authorities. Tex. Bus. & Comm. Code §521.053; 45 CFR 164.404 (Individuals), 164.406 (Media); 164.408 (Authorities)**

(A) HHS may direct CONTRACTOR to provide Breach notification to Individuals, regulators or third-parties, as specified by HHS following a Breach.

(B) CONTRACTOR shall give HHS an opportunity to review and provide feedback to CONTRACTOR and to confirm that CONTRACTOR's notice meets all regulatory requirements regarding the time, manner and content of any notification to Individuals, regulators or third-parties, or any notice required by other state or federal authorities, including without limitation, notifications required by Texas Business and Commerce Code, Chapter 521.053(b) and HIPAA. HHS shall have ten (10) business days to provide said feedback to CONTRACTOR. Notice letters will be in CONTRACTOR's name and on CONTRACTOR's letterhead, unless otherwise directed by HHS, and will contain contact information, including the name and title of CONTRACTOR's representative, an email address and a toll-free telephone number, if required by applicable law, rule, or regulation, for the Individual to obtain additional information.

(C) CONTRACTOR will provide HHS with copies of distributed and approved communications.

(D) CONTRACTOR will have the burden of demonstrating to the reasonable satisfaction of HHS that any notification required by HHS was timely made. If there are delays outside of CONTRACTOR's control, CONTRACTOR will provide written documentation of the reasons for the delay.



(E) If HHS delegates notice requirements to CONTRACTOR, HHS shall, in the time and manner reasonably requested by CONTRACTOR, cooperate and assist with CONTRACTOR's information requests in order to make such notifications and reports.

## **ARTICLE 5. STATEMENT OF WORK**

“Statement of Work” means the services and deliverables to be performed or provided by CONTRACTOR, or on behalf of CONTRACTOR by its Subcontractors or agents for HHS that are described in detail in the Base Contract. The Statement of Work, including any future amendments thereto, is incorporated by reference in this DUA as if set out word-for-word herein.

## **ARTICLE 6. GENERAL PROVISIONS**

### **6.01 Oversight of Confidential Information**

CONTRACTOR acknowledges and agrees that HHS is entitled to oversee and monitor CONTRACTOR's access to and creation, receipt, maintenance, use, disclosure of the Confidential Information to confirm that CONTRACTOR is in compliance with this DUA.

### **6.02 HHS Commitment and Obligations**

HHS will not request CONTRACTOR to create, maintain, transmit, use or disclose PHI in any manner that would not be permissible under applicable law if done by HHS.

### **6.03 HHS Right to Inspection**

At any time upon reasonable notice to CONTRACTOR, or if HHS determines that CONTRACTOR has violated this DUA, HHS, directly or through its agent, will have the right to inspect the facilities, systems, books and records of CONTRACTOR to monitor compliance with this DUA. For purposes of this subsection, HHS's agent(s) include, without limitation, the HHS Office of the Inspector General or the Office of the Attorney General of Texas, outside consultants or legal counsel or other designee.

### **6.04 Term; Termination of DUA; Survival**

This DUA will be effective on the date on which CONTRACTOR executes the DUA, and will terminate upon termination of the Base Contract and as set forth herein. If the Base Contract is extended or amended, this DUA shall be extended or amended concurrent with such extension or amendment.

(A) HHS may immediately terminate this DUA and Base Contract upon a material violation of this DUA.

(B) Termination or Expiration of this DUA will not relieve CONTRACTOR of its obligation to return or Destroy the Confidential Information as set forth in this DUA and to continue to safeguard the Confidential Information until such time as determined by HHS.

(C) If HHS determines that CONTRACTOR has violated a material term of this DUA; HHS may in its sole discretion:

(1) Exercise any of its rights including but not limited to reports, access and inspection under this DUA and/or the Base Contract; or

(2) Require CONTRACTOR to submit to a Corrective Action Plan, including a plan for monitoring and plan for reporting, as HHS may determine necessary to maintain compliance with this DUA; or

(3) Provide CONTRACTOR with a reasonable period to cure the violation as determined by HHS; or

(4) Terminate the DUA and Base Contract immediately, and seek relief in a court of competent jurisdiction in Texas.

Before exercising any of these options, HHS will provide written notice to CONTRACTOR describing the violation, the requested corrective action CONTRACTOR may take to cure the alleged violation, and the action HHS intends to take if the alleged violation is not timely cured by CONTRACTOR.

(D) If neither termination nor cure is feasible, HHS shall report the violation to the Secretary of the U.S. Department of Health and Human Services.

(E) The duties of CONTRACTOR or its Subcontractor under this DUA survive the expiration or termination of this DUA until all the Confidential Information is Destroyed or returned to HHS, as required by this DUA.

## **6.05 Governing Law, Venue and Litigation**

(A) The validity, construction and performance of this DUA and the legal relations among the Parties to this DUA will be governed by and construed in accordance with the laws of the State of Texas.

(B) The Parties agree that the courts of Texas, will be the exclusive venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, or in connection with, or by reason of this DUA.

## **6.06 Injunctive Relief**

(A) CONTRACTOR acknowledges and agrees that HHS may suffer irreparable injury if CONTRACTOR or its Subcontractor fails to comply with any of the terms of this

DUA with respect to the Confidential Information or a provision of HIPAA or other laws or regulations applicable to Confidential Information.

(B) CONTRACTOR further agrees that monetary damages may be inadequate to compensate HHS for CONTRACTOR's or its Subcontractor's failure to comply. Accordingly, CONTRACTOR agrees that HHS will, in addition to any other remedies available to it at law or in equity, be entitled to seek injunctive relief without posting a bond and without the necessity of demonstrating actual damages, to enforce the terms of this DUA.

#### **6.07 Responsibility.**

To the extent permitted by the Texas Constitution, laws and rules, and without waiving any immunities or defenses available to CONTRACTOR as a governmental entity, CONTRACTOR shall be solely responsible for its own acts and omissions and the acts and omissions of its employees, directors, officers, Subcontractors and agents. HHS shall be solely responsible for its own acts and omissions.

#### **6.08 Insurance**

(A) As a governmental entity, and in accordance with the limits of the Texas Tort Claims Act, Chapter 101 of the Texas Civil Practice and Remedies Code, CONTRACTOR either maintains commercial insurance or self-insures with policy limits in an amount sufficient to cover CONTRACTOR's liability arising under this DUA. CONTRACTOR will request that HHS be named as an additional insured. HHS reserves the right to consider alternative means for CONTRACTOR to satisfy CONTRACTOR's financial responsibility under this DUA. Nothing herein shall relieve CONTRACTOR of its financial obligations set forth in this DUA if CONTRACTOR fails to maintain insurance.

(B) CONTRACTOR will provide HHS with written proof that required insurance coverage is in effect, at the request of HHS.

#### **6.08 Fees and Costs**

Except as otherwise specified in this DUA or the Base Contract, if any legal action or other proceeding is brought for the enforcement of this DUA, or because of an alleged dispute, contract violation, Event, Breach, default, misrepresentation, or injunctive action, in connection with any of the provisions of this DUA, each party will bear their own legal expenses and the other cost incurred in that action or proceeding.

#### **6.09 Entirety of the Contract**

This DUA is incorporated by reference into the Base Contract as an amendment thereto and, together with the Base Contract, constitutes the entire agreement between the parties. No change, waiver, or discharge of obligations arising under those documents will be valid unless in writing and executed by the party against whom such change, waiver, or discharge is sought to be enforced. If any provision of the Base Contract, including any General Provisions or Uniform Terms and Conditions, conflicts with this DUA, this DUA controls.

## **6.10 Automatic Amendment and Interpretation**

If there is (i) a change in any law, regulation or rule, state or federal, applicable to HIPPA and/or Confidential Information, or (ii) any change in the judicial or administrative interpretation of any such law, regulation or rule,, upon the effective date of such change, this DUA shall be deemed to have been automatically amended, interpreted and read so that the obligations imposed on HHS and/or CONTRACTOR remain in compliance with such changes. Any ambiguity in this DUA will be resolved in favor of a meaning that permits HHS and CONTRACTOR to comply with HIPAA or any other law applicable to Confidential Information.



**Texas HHS System - Data Use Agreement - Attachment 2  
SECURITY AND PRIVACY INQUIRY (SPI)**

If you are a bidder for a new procurement/contract, in order to participate in the bidding process, you must have corrected any "No" responses (except A9a) prior to the contract award date. If you are an applicant for an open enrollment, you must have corrected any "No" answers (except A9a and A11) prior to performing any work on behalf of any Texas HHS agency.

For any questions answered "No" (except A9a and A11), an *Action Plan for Compliance with a Timeline* must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

**SECTION A: APPLICANT/BIDDER INFORMATION (To be completed by Applicant/Bidder)**

<p><b>1.</b> Does the applicant/bidder access, create, disclose, receive, transmit, maintain, or store Texas HHS Confidential Information in electronic systems (e.g., laptop, personal use computer, mobile device, database, server, etc.)? <b>IF NO, STOP. THE SPI FORM IS NOT REQUIRED.</b></p>	<p align="right"> <input type="radio"/> Yes  <input type="radio"/> No         </p>
<p><b>2. Entity or Applicant/Bidder Legal Name</b> City of Garland Public Health Department</p>	<p>Legal Name: <del>City of Garland Health Department</del>          Legal Entity Tax Identification Number (TIN) (Last Four Numbers Only): <del>7534</del>          Procurement/Contract#: <del>HHS00138100031</del>          Address: 206 Carver Street          City: Garland State: TX ZIP: 75040          Telephone #: 972-205-3370          Email Address: gph@garlandtx.gov</p>
<p><b>3. Number of Employees, at all locations, in Applicant/Bidder's Workforce</b> "Workforce" means all employees, volunteers, trainees, and other Persons whose conduct is under the direct control of Applicant/Bidder, whether or not they are paid by Applicant/Bidder. If Applicant/Bidder is a sole proprietor, the workforce may be only one employee.</p>	<p>Total Employees: 22</p>
<p><b>4. Number of Subcontractors</b> (if Applicant/Bidder will not use subcontractors, enter "0")</p>	<p>Total Subcontractors: 3</p>
<p><b>5. Name of Information Technology Security Official and Name of Privacy Official for Applicant/Bidder</b> (Privacy and Security Official may be the same person.)</p>	<p><b>A. Security Official:</b>          Legal Name: Haskell Harper          Address: 1490 Hwy 66          City: Garland State: TX ZIP: 75040          Telephone #: 972-781-7217          Email Address: hharper@garlandtx.gov</p> <p><b>B. Privacy Official:</b>          Legal Name: Haskell Harper          Address: 1490 Hwy 66          City: Garland State: TX ZIP: 75040          Telephone #: 972-781-7217          Email Address: hharper@garlandtx.gov</p>

**6. Type(s) of Texas HHS Confidential Information the Applicant/Bidder will create, receive, maintain, use, disclose or have access to: (Check all that apply)**

- Health Insurance Portability and Accountability Act (HIPAA) data
- Criminal Justice Information Services (CJIS) data
- Internal Revenue Service Federal Tax Information (IRS FTI) data
- Centers for Medicare & Medicaid Services (CMS)
- Social Security Administration (SSA)
- Personally Identifiable Information (PII)

HIPAA <input checked="" type="checkbox"/>	CJIS <input type="checkbox"/>	IRS FTI <input type="checkbox"/>	CMS <input checked="" type="checkbox"/>	SSA <input type="checkbox"/>	PII <input checked="" type="checkbox"/>
Other (Please List) HIPAA, CMS, PII cover the info GPH manages.					

<b>7. Number of Storage Devices for Texas HHS Confidential Information (as defined in the Texas HHS System Data Use Agreement (DUA))</b> Cloud Services involve using a network of remote servers hosted on the Internet to store, manage, and process data, rather than a local server or a personal computer. A Data Center is a centralized repository, either physical or virtual, for the storage, management, and dissemination of data and information organized around a particular body of knowledge or pertaining to a particular business.	Total # (Sum a-d)  20
<b>a. Devices.</b> Number of personal user computers, devices or drives, including mobile devices and mobile drives.	22
<b>b. Servers.</b> Number of Servers that are not in a data center or using Cloud Services.	0
<b>c. Cloud Services.</b> Number of Cloud Services in use.	2
<b>d. Data Centers.</b> Number of Data Centers in use.	2
<b>8. Number of unduplicated individuals for whom Applicant/Bidder reasonably expects to handle Texas HHS Confidential Information during one year:</b>	Select Option (a-d)
<b>a.</b> 499 individuals or less	<input checked="" type="radio"/> a.
<b>b.</b> 500 to 999 individuals	<input type="radio"/> b.
<b>c.</b> 1,000 to 99,999 individuals	<input type="radio"/> c.
<b>d.</b> 100,000 individuals or more	<input type="radio"/> d.
<b>9. HIPAA Business Associate Agreement</b>	
<b>a.</b> Will Applicant/Bidder use, disclose, create, receive, transmit or maintain protected health information on behalf of a HIPAA-covered Texas HHS agency for a HIPAA-covered function?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<b>b.</b> Does Applicant/Bidder have a Privacy Notice prominently displayed on a Webpage or a Public Office of Applicant/Bidder's business open to or that serves the public? (This is a HIPAA requirement. Answer "N/A" if not applicable, such as for agencies not covered by HIPAA.)	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<b>10. Subcontractors.</b> If the Applicant/Bidder responded "0" to Question 4 (indicating no subcontractors), check "N/A" for both 'a.' and 'b.'	
<b>a.</b> Does Applicant/Bidder require subcontractors to execute the DUA Attachment 1 Subcontractor Agreement Form?	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<u>Action Plan for Compliance with a Timeline:</u> When applicable	<u>Compliance Date:</u> 7/31/2023

<p><b>b.</b> Will Applicant/Bidder agree to require subcontractors who will access Confidential Information to comply with the terms of the DUA, not disclose any Confidential Information to them until they have agreed in writing to the same safeguards and to discontinue their access to the Confidential Information if they fail to comply?</p>	<p> <input checked="" type="radio"/> Yes  <input type="radio"/> No  <input type="radio"/> N/A </p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>11.</b> Does Applicant/Bidder have any <b>Optional Insurance</b> currently in place?</p> <p>Optional Insurance provides coverage for: (1) Network Security and Privacy; (2) Data Breach; (3) Cyber Liability (lost data, lost use or delay/suspension in business, denial of service with e-business, the Internet, networks and informational assets, such as privacy, intellectual property, virus transmission, extortion, sabotage or web activities); (4) Electronic Media Liability; (5) Crime/Theft; (6) Advertising Injury and Personal Injury Liability; and (7) Crisis Management and Notification Expense Coverage.</p>	<p> <input checked="" type="radio"/> Yes  <input type="radio"/> No  <input type="radio"/> N/A </p>

**SECTION B: PRIVACY RISK ANALYSIS AND ASSESSMENT (To be completed by Applicant/Bidder)**

For any questions answered "No," an Action Plan for Compliance with a Timeline must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

1. <b>Written Policies &amp; Procedures.</b> Does Applicant/Bidder have current written privacy and security policies and procedures that, at a minimum:	Yes or No
<p>a. Does Applicant/Bidder have current written privacy and security policies and procedures that identify Authorized Users and Authorized Purposes (as defined in the DUA) relating to creation, receipt, maintenance, use, disclosure, access or transmission of Texas HHS Confidential Information?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>b. Does Applicant/Bidder have current written privacy and security policies and procedures that require Applicant/Bidder and its Workforce to comply with the applicable provisions of HIPAA and other laws referenced in the DUA, relating to creation, receipt, maintenance, use, disclosure, access or transmission of Texas HHS Confidential Information on behalf of a Texas HHS agency?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>c. Does Applicant/Bidder have current written privacy and security policies and procedures that limit use or disclosure of Texas HHS Confidential Information to the minimum that is necessary to fulfill the Authorized Purposes?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>d. Does Applicant/Bidder have current written privacy and security policies and procedures that respond to an actual or suspected breach of Texas HHS Confidential Information, to include at a minimum (if any responses are "No" check "No" for all three):</p> <ul style="list-style-type: none"> <li>i. Immediate breach notification to the Texas HHS agency, regulatory authorities, and other required Individuals or Authorities, in accordance with Article 4 of the DUA;</li> <li>ii. Following a documented breach response plan, in accordance with the DUA and applicable law; &amp;</li> <li>iii. Notifying Individuals and Reporting Authorities whose Texas HHS Confidential Information has been breached, as directed by the Texas HHS agency?</li> </ul>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>



<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<b>e.</b> Does Applicant/Bidder have current written privacy and security policies and procedures that conduct annual workforce training and monitoring for and correction of any training delinquencies?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<b>f.</b> Does Applicant/Bidder have current written privacy and security policies and procedures that permit or deny individual rights of access, and amendment or correction, when appropriate?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<b>g.</b> Does Applicant/Bidder have current written privacy and security policies and procedures that permit only Authorized Users with up-to-date privacy and security training, and with a reasonable and demonstrable need to use, disclose, create, receive, maintain, access or transmit the Texas HHS Confidential Information, to carry out an obligation under the DUA for an Authorized Purpose, unless otherwise approved in writing by a Texas HHS agency?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<b>h.</b> Does Applicant/Bidder have current written privacy and security policies and procedures that establish, implement and maintain proof of appropriate sanctions against any Workforce or Subcontractors who fail to comply with an Authorized Purpose or who is not an Authorized User, and used or disclosed Texas HHS Confidential Information in violation of the DUA, the Base Contract or applicable law?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<b>i.</b> Does Applicant/Bidder have current written privacy and security policies and procedures that require updates to policies, procedures and plans following major changes with use or disclosure of Texas HHS Confidential Information within 60 days of identification of a need for update?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

<p><b>j.</b> Does Applicant/Bidder have current written privacy and security policies and procedures that restrict permissions or attempts to re-identify or further identify de-identified Texas HHS Confidential Information, or attempt to contact any Individuals whose records are contained in the Texas HHS Confidential Information, except for an Authorized Purpose, without express written authorization from a Texas HHS agency or as expressly permitted by the Base Contract?</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>k.</b> If Applicant/Bidder intends to use, disclose, create, maintain, store or transmit Texas HHS Confidential Information outside of the United States, will Applicant/Bidder obtain the express prior written permission from the Texas HHS agency and comply with the Texas HHS agency conditions for safeguarding offshore Texas HHS Confidential Information?</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>l.</b> Does Applicant/Bidder have current written privacy and security policies and procedures that require cooperation with Texas HHS agencies' or federal regulatory inspections, audits or investigations related to compliance with the DUA or applicable law?</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>m.</b> Does Applicant/Bidder have current written privacy and security policies and procedures that require appropriate standards and methods to destroy or dispose of Texas HHS Confidential Information?</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>n.</b> Does Applicant/Bidder have current written privacy and security policies and procedures that prohibit disclosure of Applicant/Bidder's work product done on behalf of Texas HHS pursuant to the DUA, or to publish Texas HHS Confidential Information without express prior approval of the Texas HHS agency?</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>2.</b> Does Applicant/Bidder have a current Workforce training program?  Training of Workforce must occur at least once every year, and within 30 days of date of hiring a new Workforce member who will handle Texas HHS Confidential Information. Training must include: (1) privacy and security policies, procedures, plans and applicable requirements for handling Texas HHS Confidential Information, (2) a requirement to complete training before access is given to Texas HHS Confidential Information, and (3) written proof of training and a procedure for monitoring timely completion of training.</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No

<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<p><b>3. Does Applicant/Bidder have Privacy Safeguards to protect Texas HHS Confidential Information in oral, paper and/or electronic form?</b></p> <p>"Privacy Safeguards" means protection of Texas HHS Confidential Information by establishing, implementing and maintaining required Administrative, Physical and Technical policies, procedures, processes and controls, required by the DUA, HIPAA (45 CFR 164.530), Social Security Administration, Medicaid and laws, rules or regulations, as applicable. Administrative safeguards include administrative protections, policies and procedures for matters such as training, provision of access, termination, and review of safeguards, incident management, disaster recovery plans, and contract provisions. Technical safeguards include technical protections, policies and procedures, such as passwords, logging, emergencies, how paper is faxed or mailed, and electronic protections such as encryption of data. Physical safeguards include physical protections, policies and procedures, such as locks, keys, physical access, physical storage and trash.</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<p><b>4. Does Applicant/Bidder and all subcontractors (if applicable) maintain a current list of Authorized Users who have access to Texas HHS Confidential Information, whether oral, written or electronic?</b></p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<p><b>5. Does Applicant/Bidder and all subcontractors (if applicable) monitor for and remove terminated employees or those no longer authorized to handle Texas HHS Confidential Information from the list of Authorized Users?</b></p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

**SECTION C: SECURITY RISK ANALYSIS AND ASSESSMENT (to be completed by Applicant/Bidder)**

<p><b>This section is about your electronic system. If your business DOES NOT store, access, or transmit Texas HHS Confidential Information in electronic systems (e.g., laptop, personal use computer, mobile device, database, server, etc.) select the box to the right, and "YES" will be entered for all questions in this section.</b></p>	<p><b>No Electronic Systems</b></p> <p><input type="checkbox"/></p>
<p>For any questions answered "No," an Action Plan for Compliance with a Timeline must be documented in the designated area below the question. The timeline for compliance with HIPAA-related items is 30 calendar days, PII-related items is 90 calendar days.</p>	
<p><b>1. Does the Applicant/Bidder ensure that services which access, create, disclose, receive, transmit, maintain, or store Texas HHS Confidential Information are maintained <b>IN</b> the United States (no offshoring) unless <b>ALL</b> of the following requirements are met?</b></p> <ul style="list-style-type: none"> <li><b>a.</b> The data is encrypted with FIPS 140-2 validated encryption</li> <li><b>b.</b> The offshore provider does not have access to the encryption keys</li> <li><b>c.</b> The Applicant/Bidder maintains the encryption key within the United States</li> <li><b>d.</b> The Application/Bidder has obtained the express prior written permission of the Texas HHS agency</li> </ul> <p><i>For more information regarding FIPS 140-2 encryption products, please refer to: <a href="http://csrc.nist.gov/publications/fips">http://csrc.nist.gov/publications/fips</a></i></p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>2. Does Applicant/Bidder utilize an IT security-knowledgeable person or company to maintain or oversee the configurations of Applicant/Bidder's computing systems and devices?</b></p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>3. Does Applicant/Bidder monitor and manage access to Texas HHS Confidential Information (e.g., a formal process exists for granting access and validating the need for users to access Texas HHS Confidential Information, and access is limited to Authorized Users)?</b></p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>4. Does Applicant/Bidder a) have a system for changing default passwords, b) require user password changes at least every 90 calendar days, and c) prohibit the creation of weak passwords (e.g., require a minimum of 8 characters with a combination of uppercase, lowercase, special characters, and numerals, where possible) for all computer systems that access or store Texas HHS Confidential Information.</b></p> <p><b>If yes, upon request must provide evidence such as a screen shot or a system report.</b></p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>

<p><b>5.</b> Does each member of Applicant/Bidder's Workforce who will use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information have a unique user name (account) and private password?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>6.</b> Does Applicant/Bidder lock the password after a certain number of failed attempts and after 15 minutes of user inactivity in all computing devices that access or store Texas HHS Confidential Information?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>7.</b> Does Applicant/Bidder secure, manage and encrypt remote access (including wireless access) to computer systems containing Texas HHS Confidential Information? (e.g., a formal process exists for granting access and validating the need for users to remotely access Texas HHS Confidential Information, and remote access is limited to Authorized Users).</p> <p><i>Encryption is required for all Texas HHS Confidential Information. Additionally, <b>FIPS 140-2</b> validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare &amp; Medicaid Services (CMS) data.</i></p> <p><i>For more information regarding FIPS 140-2 encryption products, please refer to:</i> <a href="http://csrc.nist.gov/publications/fips">http://csrc.nist.gov/publications/fips</a></p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>8.</b> Does Applicant/Bidder implement computer security configurations or settings for all computers and systems that access or store Texas HHS Confidential Information? (e.g., non-essential features or services have been removed or disabled to reduce the threat of breach and to limit exploitation opportunities for hackers or intruders, etc.)</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>9.</b> Does Applicant/Bidder secure physical access to computer, paper, or other systems containing Texas HHS Confidential Information from unauthorized personnel and theft (e.g., door locks, cable locks, laptops are stored in the trunk of the car instead of the passenger area, etc.)?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>


<p><b>10. Does Applicant/Bidder use encryption products to protect Texas HHS Confidential Information that is <u>transmitted</u> over a public network (e.g., the Internet, WiFi, etc.)?</b></p> <p><b>If yes, upon request must provide evidence such as a screen shot or a system report.</b></p> <p><i>Encryption is required for all HHS Confidential Information. Additionally, <b>FIPS 140-2</b> validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare &amp; Medicaid Services (CMS) data.</i></p> <p><i>For more information regarding FIPS 140-2 encryption products, please refer to: <a href="http://csrc.nist.gov/publications/fips">http://csrc.nist.gov/publications/fips</a></i></p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>11. Does Applicant/Bidder use encryption products to protect Texas HHS Confidential Information <u>stored</u> on end user devices (e.g., laptops, USBs, tablets, smartphones, external hard drives, desktops, etc.)?</b></p> <p><b>If yes, upon request must provide evidence such as a screen shot or a system report.</b></p> <p><i>Encryption is required for all Texas HHS Confidential Information. Additionally, <b>FIPS 140-2</b> validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare &amp; Medicaid Services (CMS) data.</i></p> <p><i>For more information regarding FIPS 140-2 encryption products, please refer to: <a href="http://csrc.nist.gov/publications/fips">http://csrc.nist.gov/publications/fips</a></i></p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>12. Does Applicant/Bidder require Workforce members to formally acknowledge rules outlining their responsibilities for protecting Texas HHS Confidential Information and associated systems containing HHS Confidential Information before their access is provided?</b></p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>13. Is Applicant/Bidder willing to perform or submit to a criminal background check on Authorized Users?</b></p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p><b>14. Does Applicant/Bidder prohibit the access, creation, disclosure, reception, transmission, maintenance, and storage of Texas HHS Confidential Information with a subcontractor (e.g., cloud services, social media, etc.) unless Texas HHS has approved the subcontractor agreement which must include compliance and liability clauses with the same requirements as the Applicant/Bidder?</b></p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>

<b>15.</b> Does Applicant/Bidder keep current on security updates/patches (including firmware, software and applications) for computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<b>16.</b> Do Applicant/Bidder's computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information contain up-to-date anti-malware and antivirus protection?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<b>17.</b> Does the Applicant/Bidder review system security logs on computing systems that access or store Texas HHS Confidential Information for abnormal activity or security concerns on a regular basis?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<b>18.</b> Notwithstanding records retention requirements, does Applicant/Bidder's disposal processes for Texas HHS Confidential Information ensure that Texas HHS Confidential Information is destroyed so that it is unreadable or undecipherable?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<b>19.</b> Does the Applicant/Bidder ensure that all public facing websites and mobile applications containing Texas HHS Confidential Information meet security testing standards set forth within the Texas Government Code (TGC), Section 2054.516; including requirements for implementing vulnerability and penetration testing and addressing identified vulnerabilities?  <i>For more information regarding TGC, Section 2054.516 DATA SECURITY PLAN FOR ONLINE AND MOBILE APPLICATIONS, please refer to: <a href="https://legiscan.com/TX/text/HB8/2017">https://legiscan.com/TX/text/HB8/2017</a></i>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

**SECTION D: SIGNATURE AND SUBMISSION (to be completed by Applicant/Bidder)**

Please sign the form digitally, if possible. If you can't, provide a handwritten signature.

**1. I certify that all of the information provided in this form is truthful and correct to the best of my knowledge. If I learn that any such information was not correct, I agree to notify Texas HHS of this immediately.**

<b>2. Signature</b>  <small>DocuSigned by: Mistie Gardner 04F0A31E865142B...</small>	<b>3. Title</b>  Director of Operations and Emergency Mgmt	<b>4. Date:</b>  July 28, 2023
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To **submit** the completed, signed form:

- Email the form as an attachment to the appropriate Texas HHS Contract Manager(s).

**Section E: To Be Completed by Texas HHS Agency Staff:**

Agency(s): HHSC: <input type="checkbox"/> DFPS: <input type="checkbox"/> DSHS: <input checked="" type="checkbox"/>	Requesting Department(s): Department of State Health Services Immunizations
Legal Entity Tax Identification Number (TIN) (Last four Only): <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; width: 20px; height: 20px; background-color: #ccc; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; background-color: #ccc; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; background-color: #ccc; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; background-color: #ccc; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; background-color: #ccc; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; background-color: #ccc; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; background-color: #ccc; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; background-color: #ccc; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; background-color: #ccc; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center; margin-right: 5px;">6</div> <div style="border: 1px solid black; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center; margin-right: 5px;">4</div> <div style="border: 1px solid black; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center; margin-right: 5px;">3</div> <div style="border: 1px solid black; width: 20px; height: 20px; display: flex; align-items: center; justify-content: center;">2</div> </div>	PO/Contract(s) #:  HHS001331300031

Contract Manager: Michelle Hilscher	Contract Manager Email Address: michelle.hilscher@dshs.texas.gov	Contract Manager Telephone #: (512) 776-6550
Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:
Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:
Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:
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**INSTRUCTIONS FOR COMPLETING THE SECURITY AND PRIVACY INQUIRY (SPI)**

*Below are instructions for Applicants, Bidders and Contractors for Texas Health and Human Services requiring the Attachment 2, Security and Privacy Inquiry (SPI) to the Data Use Agreement (DUA). Instruction item numbers below correspond to sections on the SPI form.*

If you are a bidder for a new procurement/contract, in order to participate in the bidding process, you must have corrected any "No" responses (except A9a) prior to the contract award date. If you are an applicant for an open enrollment, you must have corrected any "No" answers (except A9a and A11) prior to performing any work on behalf of any Texas HHS agency.

For any questions answered "No" (except A9a and A11), an *Action Plan for Compliance with a Timeline* must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

**SECTION A. APPLICANT /BIDDER INFORMATION**

**Item #1.** *Only contractors that access, transmit, store, and/or maintain Texas HHS Confidential Information will complete and email this form as an attachment to the appropriate Texas HHS Contract Manager.*

**Item #2. Entity or Applicant/Bidder Legal Name.** *Provide the legal name of the business (the name used for legal purposes, like filing a federal or state tax form on behalf of the business, and is not a trade or assumed named "dba"), the legal tax identification number (last four numbers only) of the entity or applicant/bidder, the address of the corporate or main branch of the business, the telephone number where the business can be contacted regarding questions related to the information on this form and the website of the business, if a website exists.*

**Item #3. Number of Employees, at all locations, in Applicant/Bidder's workforce.** *Provide the total number of individuals, including volunteers, subcontractors, trainees, and other persons who work for the business. If you are the only employee, please answer "1."*

**Item #4. Number of Subcontractors.** *Provide the total number of subcontractors working for the business. If you have none, please answer "0" zero.*

**Item #5. Number of unduplicated individuals for whom Applicant/Bidder reasonably expects to handle HHS Confidential Information during one year.** *Select the radio button that corresponds with the number of clients/consumers for whom you expect to handle Texas HHS Confidential Information during a year. Only count clients/consumers once, no matter how many direct services the client receives during a year.*

**Item #5. Name of Information Technology Security Official and Name of Privacy Official for Applicant/Bidder.** *As with all other fields on the SPI, this is a required field. This may be the same person and the owner of the business if such person has the security and privacy knowledge that is required to implement the requirements of the DUA and respond to questions related to the SPI. In 4.A. provide the name, address, telephone number, and email address of the person whom you have designated to answer any security questions found in Section C and in 4.B. provide this information for the person whom you have designated as the person to answer any privacy questions found in Section B. The business may contract out for this expertise; however, designated individual(s) must have knowledge of the business's devices, systems and methods for use, disclosure, creation, receipt, transmission and maintenance of Texas HHS Confidential Information and be willing to be the point of contact for privacy and security questions.*

**Item #6. Type(s) of HHS Confidential Information the Entity or Applicant/Bidder Will Create, Receive, Maintain, Use, Disclose or Have Access to:** *Provide a complete listing of all Texas HHS Confidential Information that the Contractor will create, receive, maintain, use, disclose or have access to. The DUA section Article 2, Definitions, defines Texas HHS Confidential Information as:*

*"Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR or that CONTRACTOR may create, receive, maintain, use, disclose or have access to on behalf of Texas HHS that consists of or includes any or all of the following:*

- (1) Client Information;*
- (2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information;*
- (3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;*

(4) Federal Tax Information;

(5) Personally Identifiable Information;

(6) Social Security Administration Data, including, without limitation, Medicaid information;

(7) All privileged work product;

(8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

Definitions for the following types of confidential information can be found the following sites:

- Health Insurance Portability and Accountability Act (HIPAA) - <http://www.hhs.gov/hipaa/index.html>
- Criminal Justice Information Services (CJIS) - <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>
- Internal Revenue Service Federal Tax Information (IRS FTI) - <https://www.irs.gov/pub/irs-pdf/p1075.pdf>
- Centers for Medicare & Medicaid Services (CMS) - <https://www.cms.gov/Regulations-and-Guidance/Regulations-and-Guidance.html>
- Social Security Administration (SSA) - <https://www.ssa.gov/regulations/>
- Personally Identifiable Information (PII) - <http://csrc.nist.gov/publications/nistpubs/800-122/sp800-122.pdf>

**Item #7. Number of Storage devices for Texas HHS Confidential Information.** The total number of devices is automatically calculated by exiting the fields in lines a - d. Use the <Tab> key when exiting the field to prompt calculation, if it doesn't otherwise sum correctly.

- **Item 7a. Devices.** Provide the number of personal user computers, devices, and drives (including mobile devices, laptops, USB drives, and external drives) on which your business stores or will store Texas HHS Confidential Information.
- **Item 7b. Servers.** Provide the number of servers not housed in a data center or "in the cloud," on which Texas HHS Confidential Information is stored or will be stored. A server is a dedicated computer that provides data or services to other computers. It may provide services or data to systems on a local area network (LAN) or a wide area network (WAN) over the Internet. If none, answer "0" (zero).
- **Item 7c. Cloud Services.** Provide the number of cloud services to which Texas HHS Confidential Information is stored. Cloud Services involve using a network of remote servers hosted on the Internet to store, manage, and process data, rather than on a local server or a personal computer. If none, answer "0" (zero).
- **Item 7d. Data Centers.** Provide the number of data centers in which you store Texas HHS Confidential Information. A Data Center is a centralized repository, either physical or virtual, for the storage, management, and dissemination of data and information organized around a particular body of knowledge or pertaining to a particular business. If none, answer "0" (zero).

**Item #8. Number of unduplicated individuals for whom the Applicant/Bidder reasonably expects to handle Texas HHS Confidential Information during one year.** Select the radio button that corresponds with the number of clients/consumers for whom you expect to handle Confidential Information during a year. Only count clients/consumers once, no matter how many direct services the client receives during a year.

**Item #9. HIPAA Business Associate Agreement.**

- **Item #9a.** Answer "Yes" if your business will use, disclose, create, receive, transmit, or store information relating to a client/consumer's healthcare on behalf of the Department of State Health Services, the Department of Disability and Aging Services, or the Health and Human Services Commission for treatment, payment, or operation of Medicaid or Medicaid clients. If your contract does not include HIPAA covered information, respond "no." If "no," a compliance plan is not required.
- **Item #9b.** Answer "Yes" if your business has a notice of privacy practices (a document that explains how you protect and use a client/consumer's healthcare information) displayed either on a website (if one exists for your business) or in your place of business (if that location is open to clients/consumers or the public). If your contract does not include HIPAA covered information, respond "N/A."

**Item #10. Subcontractors.** If your business responded "0" to question 4 (number of subcontractors), Answer "N/A" to Items 10a and 10b to indicate not applicable.

- **Item #10a.** Answer "Yes" if your business requires that all subcontractors sign Attachment 1 of the DUA.
- **Item #10b.** Answer "Yes" if your business obtains Texas HHS approval before permitting subcontractors to handle Texas HHS Confidential Information on your business's behalf.

**Item #11. Optional Insurance.** Answer "yes" if applicant has optional insurance in place to provide coverage for a Breach or any

## SECTION B. PRIVACY RISK ANALYSIS AND ASSESSMENT

Reasonable and appropriate written Privacy and Security policies and procedures are required, even for sole proprietors who are the only employee, to demonstrate how your business will safeguard Texas HHS Confidential Information and respond in the event of a Breach of Texas HHS Confidential Information. To ensure that your business is prepared, all of the items below must be addressed in your written Privacy and Security policies and procedures.

**Item #1.** Answer "Yes" if you have written policies in place for each of the areas (a-o).

- **Item #1a.** Answer "yes" if your business has written policies and procedures that identify everyone, including subcontractors, who are authorized to use Texas HHS Confidential Information. The policies and procedures should also identify the reason why these Authorized Users need to access the Texas HHS Confidential Information and this reason must align with the Authorized Purpose described in the Scope of Work or description of services in the Base Contract with the Texas HHS agency.
- **Item #1b.** Answer "Yes" if your business has written policies and procedures that require your employees (including yourself), your volunteers, your trainees, and any other persons whose work you direct, to comply with the requirements of HIPAA, if applicable, and other confidentiality laws as they relate to your handling of Texas HHS Confidential Information. Refer to the laws and rules that apply, including those referenced in the DUA and Scope of Work or description of services in the Base Contract.
- **Item #1c.** Answer "Yes" if your business has written policies and procedures that limit the Texas HHS Confidential Information you disclose to the minimum necessary for your workforce and subcontractors (if applicable) to perform the obligations described in the Scope of Work or service description in the Base Contract. (e.g., if a client/consumer's Social Security Number is not required for a workforce member to perform the obligations described in the Scope of Work or service description in the Base Contract, then the Social Security Number will not be given to them.) If you are the only employee for your business, policies and procedures must not include a request for, or use of, Texas HHS Confidential Information that is not required for performance of the services.
- **Item #1d.** Answer "Yes" if your business has written policies and procedures that explain how your business would respond to an actual or suspected breach of Texas HHS Confidential Information. The written policies and procedures, at a minimum, must include the three items below. If any response to the three items below are no, answer "no."
  - **Item #1di.** Answer "Yes" if your business has written policies and procedures that require your business to immediately notify Texas HHS, the Texas HHS Agency, regulatory authorities, or other required Individuals or Authorities of a Breach as described in Article 4, Section 4 of the DUA.  
Refer to Article 4, Section 4.01:  
*Initial Notice of Breach must be provided in accordance with Texas HHS and DUA requirements with as much information as possible about the Event/Breach and a name and contact who will serve as the single point of contact with HHS both on and off business hours. Time frames related to Initial Notice include:*
    - *within one hour of Discovery of an Event or Breach of Federal Tax Information, Social Security Administration Data, or Medicaid Client Information*
    - *within 24 hours of all other types of Texas HHS Confidential Information **48-hour Formal Notice** must be provided no later than 48 hours after Discovery for protected health information, sensitive personal information or other non-public information and must include applicable information as referenced in Section 4.01 (C) 2. of the DUA.*
  - **Item #1dii.** Answer "Yes" if your business has written policies and procedures require you to have and follow a written breach response plan as described in Article 4 Section 4.02 of the DUA.
  - **Item #1diii.** Answer "Yes" if your business has written policies and procedures require you to notify Reporting Authorities and Individuals whose Texas HHS Confidential Information has been breached as described in Article 4 Section 4.03 of the DUA.
- **Item #1e.** Answer "Yes" if your business has written policies and procedures requiring annual training of your entire workforce on matters related to confidentiality, privacy, and security, stressing the importance of promptly reporting any Event or Breach, outlines the process that you will use to require attendance and track completion for employees who failed to complete annual training.

- **Item #1f.** Answer "Yes" if your business has written policies and procedures requiring you to allow individuals (clients/consumers) to access their individual record of Texas HHS Confidential Information, and allow them to amend or correct that information, if applicable.
- **Item #1g.** Answer "Yes" if your business has written policies and procedures restricting access to Texas HHS Confidential Information to only persons who have been authorized and trained on how to handle Texas HHS Confidential Information
- **Item #1h.** Answer "Yes" if your business has written policies and procedures requiring sanctioning of any subcontractor, employee, trainee, volunteer, or anyone whose work you direct when they have accessed Texas HHS Confidential Information but are not authorized to do so, and that you have a method of proving that you have sanctioned such an individuals. If you are the only employee, you must demonstrate how you will document the noncompliance, update policies and procedures if needed, and seek additional training or education to prevent future occurrences.
- **Item #1i.** Answer "Yes" if your business has written policies and procedures requiring you to update your policies within 60 days after you have made changes to how you use or disclose Texas HHS Confidential Information.
- **Item #1j.** Answer "Yes" if your business has written policies and procedures requiring you to restrict attempts to take de-identified data and re-identify it or restrict any subcontractor, employee, trainee, volunteer, or anyone whose work you direct, from contacting any individuals for whom you have Texas HHS Confidential Information except to perform obligations under the contract, or with written permission from Texas HHS.
- **Item #1k.** Answer "Yes" if your business has written policies and procedures prohibiting you from using, disclosing, creating, maintaining, storing or transmitting Texas HHS Confidential Information outside of the United States.
- **Item #1l.** Answer "Yes" if your business has written policies and procedures requiring your business to cooperate with HHS agencies or federal regulatory entities for inspections, audits, or investigations related to compliance with the DUA or applicable law.
- **Item #1m.** Answer "Yes" if your business has written policies and procedures requiring your business to use appropriate standards and methods to destroy or dispose of Texas HHS Confidential Information. Policies and procedures should comply with Texas HHS requirements for retention of records and methods of disposal.
- **Item #1n.** Answer "Yes" if your business has written policies and procedures prohibiting the publication of the work you created or performed on behalf of Texas HHS pursuant to the DUA, or other Texas HHS Confidential Information, without express prior written approval of the HHS agency.

**Item #2.** Answer "Yes" if your business has a current training program that meets the requirements specified in the SPI for you, your employees, your subcontractors, your volunteers, your trainees, and any other persons under you direct supervision.

**Item #3.** Answer "Yes" if your business has privacy safeguards to protect Texas HHS Confidential Information as described in the SPI.

**Item #4.** Answer "Yes" if your business maintains current lists of persons in your workforce, including subcontractors (if applicable), who are authorized to access Texas HHS Confidential Information. If you are the only person with access to Texas HHS Confidential Information, please answer "yes."

**Item #5.** Answer "Yes" if your business and subcontractors (if applicable) monitor for and remove from the list of Authorized Users, members of the workforce who are terminated or are no longer authorized to handle Texas HHS Confidential Information. If you are the only one with access to Texas HHS Confidential Information, please answer "Yes."

## SECTION C. SECURITY RISK ANALYSIS AND ASSESSMENT

This section is about your electronic systems. If you DO NOT store Texas HHS Confidential Information in electronic systems (e.g., laptop, personal computer, mobile device, database, server, etc.), select the "No Electronic Systems" box and respond "Yes" for all questions in this section.

**Item #1.** Answer "Yes" if your business does not "offshore" or use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information outside of the United States. If you are not certain, contact your provider of technology services (application, cloud, data center, network, etc.) and request confirmation that they do not offshore their data.

**Item #2.** Answer "Yes" if your business uses a person or company who is knowledgeable in IT security to maintain or oversee the configurations of your business's computing systems and devices. You may be that person, or you may hire someone who can provide that service for you.

**Item #3.** Answer "Yes" if your business monitors and manages access to Texas HHS Confidential Information (i.e., reviews systems to ensure that access is limited to Authorized Users; has formal processes for granting, validating, and reviews the need for remote access to Authorized Users to Texas HHS Confidential Information, etc.). If you are the only employee, answer "Yes" if you have implemented a process to periodically evaluate the need for accessing Texas HHS Confidential Information to fulfill your Authorized Purposes.

**Item #4.** Answer "Yes" if your business has implemented a system for changing the password a system initially assigns to the user (also known as the default password), and requires users to change their passwords at least every 90 days, and prohibits the creation of weak passwords for all computer systems that access or store Texas HHS Confidential Information (e.g., a strong password has a minimum of 8 characters with a combination of uppercase, lowercase, special characters, and numbers, where possible). If your business uses a Microsoft Windows system, refer to the Microsoft website on how to do this, see example: <https://docs.microsoft.com/en-us/windows/security/threat-protection/security-policy-settings/password-policy>

**Item #5.** Answer "Yes" if your business assigns a unique user name and private password to each of your employees, your subcontractors, your volunteers, your trainees and any other persons under your direct control who will use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information.

**Item #6.** Answer "Yes" if your business locks the access after a certain number of failed attempts to login and after 15 minutes of user inactivity on all computing devices that access or store Texas HHS Confidential Information. If your business uses a Microsoft Windows system, refer to the Microsoft website on how to do this, see example: <https://docs.microsoft.com/en-us/windows/security/threat-protection/security-policy-settings/account-lockout-policy>

**Item #7.** Answer "Yes" if your business secures, manages, and encrypts remote access, such as: using Virtual Private Network (VPN) software on your home computer to access Texas HHS Confidential Information that resides on a computer system at a business location or, if you use wireless, ensuring that the wireless is secured using a password code. If you do not access systems remotely or over wireless, answer "Yes."

**Item #8.** Answer "Yes" if your business updates the computer security settings for all your computers and electronic systems that access or store Texas HHS Confidential Information to prevent hacking or breaches (e.g., non-essential features or services have been removed or disabled to reduce the threat of breach and to limit opportunities for hackers or intruders to access your system). For example, Microsoft's Windows security checklist: <https://docs.microsoft.com/en-us/windows/security/threat-protection/security-policy-settings/how-to-configure-security-policy-settings>

**Item #9.** Answer "Yes" if your business secures physical access to computer, paper, or other systems containing Texas HHS Confidential Information from unauthorized personnel and theft (e.g., door locks, cable locks, laptops are stored in the trunk of the car instead of the passenger area, etc.). If you are the only employee and use these practices for your business, answer "Yes."

**Item #10.** Answer "Yes" if your business uses encryption products to protect Texas HHS Confidential Information that is transmitted over a public network (e.g., the Internet, WIFI, etc.) or that is stored on a computer system that is physically or electronically accessible to the public (FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.) For more information regarding FIPS 140-2 encryption products, please refer to: <http://csrc.nist.gov/publications/fips>.

**Item #11.** Answer "Yes" if your business stores Texas HHS Confidential Information on encrypted end-user electronic devices (e.g., laptops, USBs, tablets, smartphones, external hard drives, desktops, etc.) and can produce evidence of the encryption, such as, a screen shot or a system report (FIPS 140-2 encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data). For more information regarding FIPS 140-2 validated encryption products, please refer to: <http://csrc.nist.gov/publications/fips>). If you do not utilize end-user electronic devices for storing Texas HHS Confidential Information, answer "Yes."

**Item #12.** Answer "Yes" if your business requires employees, volunteers, trainees and other workforce members to sign a document that clearly outlines their responsibilities for protecting Texas HHS Confidential Information and associated systems containing Texas HHS Confidential Information before they can obtain access. If you are the only employee answer "Yes" if you have signed or are willing to sign the DUA, acknowledging your adherence to requirements and responsibilities.

**Item #13.** Answer "Yes" if your business is willing to perform a criminal background check on employees, subcontractors, volunteers, or trainees who access Texas HHS Confidential Information. If you are the only employee, answer "Yes" if you are willing to submit to a background check.

**Item #14.** Answer "Yes" if your business prohibits the access, creation, disclosure, reception, transmission, maintenance, and storage of Texas HHS Confidential Information on Cloud Services or social media sites if you use such services or sites, and there is a Texas HHS approved subcontractor agreement that includes compliance and liability clauses with the same requirements as the Applicant/Bidder. If you do not utilize Cloud Services or media sites for storing Texas HHS Confidential Information, answer "Yes."

**Item #15.** Answer "Yes" if your business keeps current on security updates/patches (including firmware, software and applications) for computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information. If you use a Microsoft Windows system, refer to the Microsoft website on how to ensure your system is automatically updating, see example:

<https://portal.msrc.microsoft.com/en-us/>

**Item #16.** Answer "Yes" if your business's computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information contain up-to-date anti-malware and antivirus protection. If you use a Microsoft Windows system, refer to the Microsoft website on how to ensure your system is automatically updating, see example:

<https://docs.microsoft.com/en-us/windows/security/threat-protection/>

**Item #17.** Answer "Yes" if your business reviews system security logs on computing systems that access or store Texas HHS Confidential Information for abnormal activity or security concerns on a regular basis. If you use a Microsoft Windows system, refer to the Microsoft website for ensuring your system is logging security events, see example:

<https://docs.microsoft.com/en-us/windows/security/threat-protection/auditing/basic-security-audit-policies>

**Item #18.** Answer "Yes" if your business disposal processes for Texas HHS Confidential Information ensures that Texas HHS Confidential Information is destroyed so that it is unreadable or undecipherable. Simply deleting data or formatting the hard drive is not enough; ensure you use products that perform a secure disk wipe. Please see NIST SP 800-88 R1, *Guidelines for Media Sanitization* and the applicable laws and regulations for the information type for further guidance.

**Item #19.** Answer "Yes" if your business ensures that all public facing websites and mobile applications containing HHS Confidential Information meet security testing standards set forth within the Texas Government Code (TGC), Section 2054.516

## SECTION D. SIGNATURE AND SUBMISSION

Click on the signature area to digitally sign the document. Email the form as an attachment to the appropriate Texas HHS Contract Manager.

**ATTACHMENT F**



**TEXAS**  
**Health and Human Services**

**Health and Human Services (HHS)**  
**Additional Provisions – Grant Funding**  
**Version 1.0**  
**Effective: February 2021**

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**19. RECORDS RETENTION (FEDERAL) ..... 8**



## **ADDITIONAL PROVISIONS**

The terms and conditions of these Additional Provisions are incorporated into and made a part of the Grant Agreement/ Contract. Terms included in these Additional Provisions and not otherwise defined have the meanings assigned to them in **HHS UNIFORM TERMS AND CONDITIONS, ATTACHMENT D.**

### **1. ELECTRICAL ITEMS**

All electrical items purchased under this Grant Agreement/Contract or used in the performance of approved and eligible grant-funded activities must meet all applicable Occupational Safety and Health Administration (OSHA) standards and regulations, and bear the appropriate listing from Underwriters Laboratory (UL), Factory Mutual Resource Corporation (FMRC), or National Electrical Manufacturers Association (NEMA).

### **2. DISASTER SERVICES**

In the event of a local, state, or federal emergency, including natural, man-made, criminal, terrorist, and/or bioterrorism events, declared as a state disaster by the Governor, or a federal disaster declared by the appropriate federal official, Grantee/Contractor may be called upon to assist the System Agency in providing the following services:

- i. Community evacuation;
- ii. Health and medical assistance;
- iii. Assessment of health and medical needs;
- iv. Health surveillance;
- v. Medical care personnel;
- vi. Health and medical equipment and supplies;
- vii. Patient evacuation;
- viii. In-hospital care and hospital facility status;
- ix. Food, drug and medical device safety;
- x. Worker health and safety;
- xi. Mental health and substance abuse;
- xii. Public health information;
- xiii. Vector control and veterinary services; and
- xiv. Victim identification and mortuary services.

### **3. NOTICE OF A LICENSE ACTION**

Grantee/Contractor shall notify the assigned System Agency contract manager in writing of any action impacting Grantee/Contractor's license to provide services under this Grant Agreement/Contract within five business days of becoming aware of the action and include the following:

- i. Reason for such action;
- ii. Name and contact information of the local, state or federal department or agency or entity;
- iii. Date of the license action; and
- iv. License or case reference number.

#### **4. SERVICES AND INFORMATION FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY**

- A. Grantee/Contractor shall take reasonable steps to provide services and information both orally and in writing, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits and activities. Meaningful access may entail providing language assistance services, including oral interpretation and written translation, if necessary. More information can be found at <https://www.lep.gov/>.
- B. Grantee/Contractor shall identify and document on the client records the primary language/dialect of a client who has limited English proficiency and the need for translation or interpretation services and shall not require a client to provide or pay for the services of a translator or interpreter.
- C. Grantee/Contractor shall make every effort to avoid use of any persons under the age of 18 or any family member or friend of the client as an interpreter for essential communications with a client with limited English proficiency, unless the client has requested that person and using the person would not compromise the effectiveness of services or violate the client's confidentiality and the client is advised that a free interpreter is available.

#### **5. THIRD PARTY PAYORS**

- A. Except as provided in this Grant Agreement/Contract, Grantee/Contractor shall screen all clients and may not bill the System Agency for services eligible for reimbursement from third party payors, who are any person or entity who has the legal responsibility for paying for all or part of the services provided, including commercial health or liability insurance carriers, Medicaid, or other federal, state, local and private funding sources.
- B. As applicable, the Grantee/Contractor shall:
  - i. Enroll as a provider in Children's Health Insurance Program and Medicaid if providing approved services authorized under this Grant Agreement/Contract that may be covered by those programs and bill those programs for the covered services;
  - ii. Provide assistance to individuals to enroll in such programs when the screening process indicates possible eligibility for such programs;
  - iii. Allow clients that are otherwise eligible for System Agency services, but cannot pay a deductible required by a third party payor, to receive services and bill the System Agency for the deductible;
  - iv. Not bill the System Agency for any services eligible for third party reimbursement until all appeals to third party payors have been exhausted;
  - v. Maintain appropriate documentation from the third party payor reflecting attempts to obtain reimbursement;
  - vi. Bill all third party payors for services provided under this Grant Agreement/Contract before submitting any request for reimbursement to System Agency; and
  - vii. Provide third party billing functions at no cost to the client.

#### **6. MEDICAL RECORDS RETENTION**

Grantee/Contractor shall retain medical records in accordance with 22 TAC §165.1(b) or other applicable statutes, rules and regulations governing medical information.

## **7. INTERIM EXTENSION AMENDMENT**

- A. Prior to or on the expiration date of this Grant Agreement/Contract, the Parties agree that this Grant Agreement/Contract can be extended as provided under this section.
- B. The System Agency shall provide written notice of interim extension amendment to the Grantee/Contractor under one of the following circumstances:
  - i. Continue provision of services in response to a disaster declared by the governor; or
  - ii. To ensure that services are provided to clients without interruption.
- C. The System Agency will provide written notice of the interim extension amendment that specifies the reason for it and period of time for the extension.
- D. Grantee/Contractor will provide and invoice for services in the same manner that is stated in the Grant Agreement/Contract.
- E. An interim extension under subsection (B)(i) of this section shall extend the term of the Grant Agreement/Contract not longer than 30 days after governor's disaster declaration is declared unless the Parties agree to a shorter period of time.
- F. An interim extension under subsection (B)(i) of this section shall be a one-time extension for a period of time determined by the System Agency.

## **8. NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS**

- A. Grantee/Contractor shall immediately report in writing to its assigned System Agency contract manager when Grantee/Contractor learns of or has any reason to believe it or any person with ownership or controlling interest in Grantee/Contractor, or their agent, employee, subcontractor or volunteer who is providing services under this Grant Agreement/Contract has been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime.
- B. Grantee/Contractor shall not permit any person who engaged, or was alleged to have engaged, in any activity subject to reporting under this section to perform direct client services or have direct contact with clients, unless otherwise directed in writing by the System Agency.

## **9. NOTICE OF GRANT AGREEMENT/CONTRACT ACTION**

Grantee/Contractor shall notify the assigned System Agency contract manager if Grantee/Contractor has any grant agreement or contract suspended or terminated for cause by any local, state or federal department or agency or nonprofit entity within five business days of becoming aware of the action and include the following:

- i. Reason for such action;
- ii. Name and contact information of the local, state or federal department or agency or entity;
- iii. Effective start date of the grant agreement/contract;
- iv. Date of suspension or termination; and
- v. Grant agreement/contract or case reference number.

**10. NOTICE OF BANKRUPTCY**

Grantee/Contractor shall notify in writing the assigned System Agency contract manager of its plan to seek bankruptcy protection within five business days of such action by Grantee/Contractor.

**11. NOTICE OF CHANGE OF CONTACT PERSON OR KEY PERSONNEL**

The Grantee/Contractor shall notify in writing the assigned System Agency contract manager within ten business days of any change to the Grantee/Contractor's Contact Person or Key Personnel.

**12. BYRD ANTI-LOBBYING AMENDMENT**

Grantee certifies that no federal appropriated funds have been paid or will be paid to any persons or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on its behalf to obtain, extend, or modify this contract or grant. If non-federal funds are used by Grantee to conduct such lobbying activities, Grantee shall promptly file the prescribed disclosure form. In accordance with 31 U.S.C. §1352(b)(5), Grantee acknowledges and agrees that it is responsible for ensuring that each subrecipient and subcontractor certifies its compliance with the expenditures prohibition and the declaration requirement.

**13. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

Grantee represents and warrants that it will comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).

**14. COMPLIANCE WITH LAWS, RULES, AND REQUIREMENTS**

Grantee represents and warrants that it will comply, and assure the compliance of all its subrecipients and contractors, with all applicable federal and state laws, rules, regulations, and policies in effect or hereafter established. In addition, Grantee represents and warrants that it will comply with all requirements imposed by the awarding agency concerning special requirements of law, program requirements, and other administrative requirements. In instances where multiple requirements apply to Grantee, the more restrictive requirement applies.

**15. DISCLOSURE OF VIOLATIONS OF FEDERAL CRIMINAL LAW**

Grantee represents and warrants its compliance with 2 CFR §200.113 which requires the disclosure in writing of violations of federal criminal law involving fraud, bribery, and gratuity and the reporting of certain civil, criminal, or administrative proceedings to SAM. Grantee must disclose, in a timely manner in writing to System Agency and the Health and Human Services Office of Inspector General, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the Centers for Disease Control and to the Health and Human Services Office of Inspector General at the following addresses:

CDC, Office of Grants Services  
Kathy Raible, Grants Management Officer/Specialist  
Centers for Disease Control and Prevention  
Branch 1  
2939 Flowers Road, MS-TV2  
Atlanta, GA 30341  
Email: [kcr8@cdc.gov](mailto:kcr8@cdc.gov) (Include “Mandatory Grant Disclosures” in subject line)

AND

U.S. Department of Health and Human Services  
Office of Inspector General  
ATTN: Mandatory Grant Disclosures, Intake Coordinator  
330 Independence Avenue, SW  
Cohen Building, Room 5527  
Washington, DC 20201

Fax: (202) 205-0604 (Include “Mandatory Grant Disclosures” in subject line” or  
Email: [MandatoryGranteeDisclosures@oig.hhs.gov](mailto:MandatoryGranteeDisclosures@oig.hhs.gov)

Failure to make the required disclosures can result in any of the remedies described in 45 CFR 75.371. Remedies for noncompliance, including suspension or debarment (See 2 CFR Parts 180 and 376, and 31 U.S.C. 3321).

**16. EXCLUDED PARTIES**

Grantee certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, “*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*” published by the United States Department of Treasury, Office of Foreign Assets Control.

**17. NO CONFLICTS OF INTEREST (FEDERAL)**

Grantee represents and warrants its compliance with the Federal awarding agency's conflict of interest policies in accordance with 2 CFR § 200.112.

**18. OPEN MEETINGS**

If the Grantee is a governmental entity, Grantee represents and warrants its compliance with Chapter 551 of the Texas Government Code which requires all regular, special, and called meetings of a governmental body to be open to the public, except as otherwise provided by law.

**19. RECORDS RETENTION (FEDERAL)**

Grantee represents and warrants its compliance with the records retention requirements of 2 CFR §200.333. System Agency reserves the right to direct Grantee to retain documents for a longer period of time or transfer certain records to System Agency's custody when it is determined the records possess longer term retention value. Grantee must include the substance of this clause in all subaward and subcontracts.

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**ASSURANCES - NON-CONSTRUCTION PROGRAMS**

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.


**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL  04FOA31E865142B...	TITLE Director of Operations and Emergency Mgmt
APPLICANT ORGANIZATION City of Garland Public Health Department	DATE SUBMITTED July 28, 2023



### CERTIFICATION REGARDING LOBBYING

#### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\* APPLICANT'S ORGANIZATION

City of Garland Public Health Department

\* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Prefix:  \* First Name: Mistie Middle Name:

\* Last Name: Gardner Suffix:

\* Title: Director of Operations and Emergency Management

\* SIGNATURE:

DocuSigned by:

Mistie Gardner

04F0A31E086142B...

\* DATE: July 28, 2023

**DISCLOSURE OF LOBBYING ACTIVITIES**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C.1352

OMB Number: 4040-0013  
Expiration Date: 02/28/2025


<b>1. * Type of Federal Action:</b> <input type="checkbox"/> a. contract <input checked="" type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. * Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input checked="" type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. * Report Type:</b> <input checked="" type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change
<b>4. Name and Address of Reporting Entity:</b> <input checked="" type="checkbox"/> Prime <input type="checkbox"/> SubAwardee * Name <input style="width:300px;" type="text"/> * Street 1 <input style="width:300px;" type="text"/> Street 2 <input style="width:300px;" type="text"/> * City <input style="width:150px;" type="text"/> State <input style="width:150px;" type="text"/> Zip <input style="width:50px;" type="text"/> Congressional District, if known: <input style="width:150px;" type="text"/>		
<b>5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:</b>   		
<b>6. * Federal Department/Agency:</b> <input style="width:300px;" type="text"/>	<b>7. * Federal Program Name/Description:</b> <input style="width:300px;" type="text"/> CFDA Number, if applicable: <input style="width:100px;" type="text"/>	
<b>8. Federal Action Number, if known:</b> <input style="width:300px;" type="text"/>	<b>9. Award Amount, if known:</b> \$ <input style="width:100px;" type="text"/>	
<b>10. a. Name and Address of Lobbying Registrant:</b> Prefix <input style="width:50px;" type="text"/> * First Name <input style="width:150px;" type="text"/> Middle Name <input style="width:100px;" type="text"/> * Last Name <input style="width:250px;" type="text"/> Suffix <input style="width:50px;" type="text"/> * Street 1 <input style="width:150px;" type="text"/> Street 2 <input style="width:200px;" type="text"/> * City <input style="width:100px;" type="text"/> State <input style="width:100px;" type="text"/> Zip <input style="width:50px;" type="text"/>		
<b>b. Individual Performing Services</b> (including address if different from No. 10a) Prefix <input style="width:50px;" type="text"/> * First Name <input style="width:150px;" type="text"/> Middle Name <input style="width:100px;" type="text"/> * Last Name <input style="width:250px;" type="text"/> Suffix <input style="width:50px;" type="text"/> * Street 1 <input style="width:150px;" type="text"/> Street 2 <input style="width:200px;" type="text"/> * City <input style="width:100px;" type="text"/> State <input style="width:100px;" type="text"/> Zip <input style="width:50px;" type="text"/>		
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		
<b>* Signature:</b> <input style="width:300px;" type="text"/> <b>*Name:</b> Prefix <input style="width:50px;" type="text"/> * First Name <input style="width:150px;" type="text"/> Middle Name <input style="width:100px;" type="text"/> * Last Name <input style="width:250px;" type="text"/> Suffix <input style="width:50px;" type="text"/> <b>Title:</b> <input style="width:150px;" type="text"/> <b>Telephone No.:</b> <input style="width:100px;" type="text"/> <b>Date:</b> <input style="width:100px;" type="text" value="July 28, 2023"/>		
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)



## Fiscal Federal Funding Accountability and Transparency Act (FFATA)

The certifications enumerated below represent material facts upon which DSHS relies when reporting information to the federal government required under federal law. If the Department later determines that the Contractor knowingly rendered an erroneous certification, DSHS may pursue all available remedies in accordance with Texas and U.S. law. Signor further agrees that it will provide immediate written notice to DSHS if at any time Signor learns that any of the certifications provided for below were erroneous when submitted or have since become erroneous by reason of changed circumstances. ***If the Signor cannot certify all of the statements contained in this section, Signor must provide written notice to DSHS detailing which of the below statements it cannot certify and why.***

<b>Legal Name of Contractor:</b>  City of Garland Public Health Department	<b>FFATA Contact: (Name, Email and Phone Number):</b>  Nancy Guerra nguerra@galandtx.gov 972-205-2467
<b>Primary Address of Contractor:</b>  206 Carver Street Garland, TX	<b>Zip Code: 9-digits required <a href="http://www.usps.com">www.usps.com</a></b>  75040-7361
<b>Unique Entity ID (UEI): This number replaces the DUNS <a href="http://www.sam.gov">www.sam.gov</a></b>  F2DLUDKRCN98	<b>State of Texas Comptroller Vendor Identification Number (VIN) – 14 digits:</b>  1-756000534-7361

<b>Printed Name of Authorized Representative:</b>  Mistie Gardner	<b>Signature of Authorized Representative</b>   <small>DocuSigned by: Mistie Gardner 04F0A31E865142B...</small>
<b>Title of Authorized Representative</b>  Director of Operations and Emergency Mgmt	<b>Date Signed</b>  July 28, 2023

# Fiscal Federal Funding Accountability and Transparency Act (FFATA) CERTIFICATION

**As the duly authorized representative (Signor) of the Contractor, I hereby certify that the statements made by me in this certification form are true, complete, and correct to the best of my knowledge.**

Did your organization have a gross income, from all sources, of less than \$300,000 in your previous tax year? Yes  No

If your answer is "Yes", skip questions "A", "B", and "C" and finish the certification. If your answer is "No", answer questions "A" and "B".

---

### A. Certification Regarding % of Annual Gross from Federal Awards.

Did your organization receive 80% or more of its annual gross revenue from federal awards during the preceding fiscal year? Yes  No

### B. Certification Regarding Amount of Annual Gross from Federal Awards.

Did your organization receive \$25 million or more in annual gross revenues from federal awards in the preceding fiscal year? Yes  No

If your answer is "Yes" to both question "A" and "B", you must answer question "C".  
If your answer is "No" to either question "A" or "B", skip question "C" and finish the certification.

---

### C. Certification Regarding Public Access to Compensation Information.

Does the public have access to information about the compensation of the senior executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986? Yes  No

**If your answer is "Yes" to this question, where can this information be accessed?**

<https://govsalaries.com/>

**If your answer is "No" to this question, you must provide the names and total compensation of the top five highly compensated officers below.**

**Provide compensation information here:**

**Certificate Of Completion**

Envelope Id: E8738B2051F34AA9B9CEEDEB0E2FEFC5	Status: Completed
Subject: Please DocuSign: HHS001331300031 City of Garland FY24 IMM LOCALS	
Source Envelope:	
Document Pages: 101	Signatures: 7
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	CMS Internal Routing Mailbox
Time Zone: (UTC-06:00) Central Time (US & Canada)	11493 Sunset Hills Road
	#100
	Reston, VA 20190
	CMS.InternalRouting@dshs.texas.gov
	IP Address: 160.42.90.99


**Record Tracking**

Status: Original	Holder: CMS Internal Routing Mailbox	Location: DocuSign
7/27/2023 12:16:06 PM	CMS.InternalRouting@dshs.texas.gov	

**Signer Events**

Mistie Gardner  
 MGardner@garlandtx.gov  
 Director of Operations and Emergency Mgmt  
 Security Level: Email, Account Authentication (None)

**Signature**

DocuSigned by:  
  
 04F0A31E865142B...  
 Signature Adoption: Pre-selected Style  
 Using IP Address: 50.84.41.133

**Timestamp**

Sent: 7/27/2023 12:29:35 PM  
 Viewed: 7/28/2023 6:41:28 AM  
 Signed: 7/28/2023 7:08:32 AM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Helen Whittington  
 helen.whittington@dshs.texas.gov  
 Contract Specialist  
 Security Level: Email, Account Authentication (None)

**Completed**

Using IP Address: 167.137.1.17

Sent: 7/28/2023 7:08:37 AM  
 Viewed: 7/28/2023 7:38:38 AM  
 Signed: 7/28/2023 8:28:23 AM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

PATTY MELCHIOR  
 Patty.Melchior@dshs.texas.gov  
 Director, DSHS CMS  
 Security Level: Email, Account Authentication (None)

**Completed**

Using IP Address: 167.137.1.15

Sent: 7/28/2023 8:28:29 AM  
 Viewed: 7/28/2023 9:35:37 AM  
 Signed: 7/28/2023 9:35:50 AM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Kirk Cole  
 kirk.cole@dshs.texas.gov  
 Deputy Commissioner  
 Security Level: Email, Account Authentication (None)

DocuSigned by:  
  
 04DD3FAAF59048D...

Signature Adoption: Pre-selected Style  
 Using IP Address: 108.85.129.44

Sent: 7/28/2023 9:35:56 AM  
 Viewed: 8/1/2023 6:07:03 PM  
 Signed: 8/1/2023 6:07:54 PM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Susan Cannon scannon@garlandtx.gov Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<b>COPIED</b>	Sent: 7/27/2023 12:29:35 PM
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Michelle Hilscher michelle.hilscher@dshs.texas.gov Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<b>COPIED</b>	Sent: 8/1/2023 6:07:59 PM
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CMS Inbox cmucontracts@dshs.texas.gov Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<b>COPIED</b>	Sent: 8/1/2023 6:08:01 PM
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Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	7/27/2023 12:29:35 PM
Certified Delivered	Security Checked	8/1/2023 6:07:03 PM
Signing Complete	Security Checked	8/1/2023 6:07:54 PM
Completed	Security Checked	8/1/2023 6:08:01 PM

Payment Events	Status	Timestamps
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**Exhibit B**



**TEXAS**  
Health and Human  
Services

**Texas Department of State Health Services**

Jennifer A. Shuford, M.D., M.P.H.  
*Commissioner*

Mistie Gardner  
City of Garland Health Department  
206 Carver Street  
Garland, Texas 75040

Subject: Grant: Public Health Infrastructure Grant  
Program ID: CPS/PHIG  
Contract Number: HHS001310100001  
Contract Amount: \$1,950,883.00  
Contract Term: Upon Execution through November 30, 2027

Dear Ms. Gardner:

Enclosed is the Public Health Infrastructure, Workforce, and Data Systems contract between the Department of State Health Services and City of Garland Health Department.

The purpose of this contract is to make strategic investments to support hiring, retaining, supporting, and training the public health workforce and strengthening public health infrastructure and systems related to the workforce and foundational capabilities in alignment with the Strengthening U.S. Public Health Infrastructure, Workforce, and Data Systems program (Funding Opportunity Number CDC RFA OE22-2203) from the Centers for Disease Control and Prevention (CDC).

Please let me know if you have any questions or need additional information.

Sincerely,

Kristiana Flores, CTCM  
Contract Manager  
512-776-6538  
Kristiana.Flores@dshs.texas.gov



**SIGNATURE DOCUMENT FOR  
THE DEPARTMENT OF STATE HEALTH SERVICES GRANT AGREEMENT,  
CONTRACT NO. HHS001310100001**

**UNDER THE  
CENTER FOR HEALTH EMERGENCY PREPAREDNESS & RESPONSE (CHEPR) GRANT PROGRAM**

The parties to this agreement (“Grant Agreement” or “Contract”) are the Department of State Health Services (“System Agency”) and City of Garland Health Department (“Grantee”), having its principal office at 206 Carver Street, Garland, Texas 75040 (each a “Party” and collectively the “Parties”).

**I. PURPOSE**

The purpose of this Grant Agreement is to make strategic investments to support hiring, retaining, and training the public health workforce, and to strengthen public health infrastructure and systems related to the workforce and foundational capabilities in alignment with the Strengthening U.S. Public Health Infrastructure, Workforce, and Data Systems (Funding Opportunity Number CDC RFA OE22-2203) program from the Centers for Disease Control and Prevention (CDC).

**II. LEGAL AUTHORITY**

This Grant Agreement is entered into pursuant to Texas Health and Safety Code: Title 2 Chapter 12 (section 12.011) and Chapter 81 (section 81.005); Title 12 Chapter 1001 (section 1001.071), and Texas Government Code: Title 4 Chapter 531 and Chapter 418 Subchapter C (section 418.043); Title 7 Chapter 791.

**III. DURATION**

This Grant Agreement is effective on the signature date of the latter of the Parties to sign this agreement and expires on November 30, 2027, unless sooner terminated. This Grant Agreement does not include renewals.

**IV. STATEMENT OF WORK**

The Statement of Work to which Grantee is bound is included as Attachment A and is incorporated into and made a part of this Grant Agreement for all purposes.

**V. BUDGET AND INDIRECT COST RATE**

The total amount of this Grant Agreement will not exceed **\$1,950,883.00**. Grantee is not required to provide matching funds.

The total not-to-exceed amount includes the following:

Total Federal Funds: \$1,950,883.00  
Total State Funds: \$0.00

All expenditures under the Grant Agreement will be in accordance with **ATTACHMENT B, BUDGET**.

If the System Agency approves or acknowledges an updated indirect cost rate, the Grant Agreement will be amended to incorporate the new rate (and the new indirect cost rate letter, if applicable) and the budget revised accordingly.

## **VI. REPORTING REQUIREMENTS**

Grantee shall submit all required reports in accordance with Articles III and IV of the Statement of Work.

## **VII. CONTRACT REPRESENTATIVES**

The following will act as the representative authorized to administer activities under this Grant Agreement on behalf of their respective Party.

### **System Agency**

Kristiana Flores  
Department of State Health Services  
1100 W. 49<sup>th</sup> Street, MC1990  
Austin, Texas 78756  
[Kristiana.Flores@dshs.texas.gov](mailto:Kristiana.Flores@dshs.texas.gov)

### **Grantee**

Susan Cannon  
City of Garland Health Department  
206 Carver Street  
Garland, Texas 75040  
[SCannon@garlandtx.gov](mailto:SCannon@garlandtx.gov)

## **VIII. NOTICE REQUIREMENTS**

- A. All notices given by Grantee shall be in writing, include the Grant Agreement contract number, comply with all terms and conditions of the Grant Agreement, and be delivered to the System Agency's Contract Representative identified above.
- B. Grantee shall send legal notices to System Agency at the address below and provide a copy to the System Agency's Contract Representative:

Health and Human Services Commission  
Attn: Office of Chief Counsel  
4601 W. Guadalupe, Mail Code 1100  
Austin, Texas 78751

***with a copy to:***

Department of State Health Services  
Attention: General Counsel  
1100 W. 49<sup>th</sup> Street, Mail Code 1919  
Austin, TX 78756

- C. Notices given by System Agency to Grantee may be emailed, mailed or sent by common carrier. Email notices shall be deemed delivered when sent by System Agency. Notices sent by mail shall be deemed delivered when deposited by the System Agency in the United States mail, postage paid, certified, return receipt requested. Notices sent by common carrier shall be deemed delivered when deposited by the System Agency with a common carrier, overnight, signature required.
- D. Notices given by Grantee to System Agency shall be deemed delivered when received by System Agency.
- E. Either Party may change its Contract Representative or Legal Notice contact by providing written notice to the other Party.

## **IX. FEDERAL AWARD INFORMATION**

**GRANTEE'S UNIQUE ENTITY IDENTIFIER: F2DLUDKRCN98**

**Federal funding under this Grant Agreement is a subaward under the following federal award.**

**Federal Award Identification Number (FAIN): NE11OE000001**

- A. Assistance Listings Title, Number, and Dollar Amount: CDC's Collaboration with Academia to Strengthen Public Health – 93.967 -\$146,769,640.00
- B. Federal Award Date: 11/29/2022
- C. Federal Award Period: 12/1/2022-11/30/2023
- D. Name of Federal Awarding Agency: Centers for Disease Control and Prevention
- E. Federal Award Project Description: Strengthening Public Health Infrastructure, Workforce and Data Systems
- F. Awarding Official Contact Information: Lakita Reid
- G. Total Amount of Federal Funds Awarded to System Agency: \$146,769,640.00
- H. Amount of Funds Awarded to Grantee: \$1,950,883.00
- I. Identification of Whether the Award is for Research and Development: No

## **X. CONTRACT DOCUMENTS**

**The following documents are incorporated by reference and made a part of this Grant Agreement for all purposes.**

Unless expressly stated otherwise in this Grant Agreement, in the event of conflict, ambiguity or inconsistency between or among any documents, all System Agency documents take precedence over Grantee's documents and the Data Use Agreement takes precedence over all other contract documents.

**ATTACHMENT A – STATEMENT OF WORK**  
**ATTACHMENT B – BUDGET**  
**ATTACHMENT C – CONTRACT AFFIRMATIONS-v2.2**  
**ATTACHMENT D – UNIFORM TERMS AND CONDITIONS – GRANT-v.3.2**  
**ATTACHMENT E – DATA USE AGREEMENT-TACCHO VERSION**  
**ATTACHMENT F – FEDERAL ASSURANCES-v1.1**  
**ATTACHMENT G – CERTIFICATION REGARDING LOBBYING**  
**ATTACHMENT H – FFATA CERTIFICATION FORM**

## **XI. SIGNATURE AUTHORITY**

Each Party represents and warrants that the person executing this Grant Agreement on its behalf has full power and authority to enter into this Grant Agreement. Any services or work performed by Grantee before this Grant Agreement is effective or after it ceases to be effective are performed at the sole risk of Grantee.

**SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE FOR SYSTEM AGENCY GRANT AGREEMENT,  
CONTRACT NO. HHS001310100001**

**DEPARTMENT OF STATE HEALTH  
SERVICES**

**CITY OF GARLAND HEALTH  
DEPARTMENT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

**ATTACHMENT A**  
**STATEMENT OF WORK**  
**Strengthening U.S. Public Health Infrastructure, Workforce, and**  
**Data Systems**

**I. GRANTEE RESPONSIBILITIES**

Grantee shall:

- A. Make strategic investments to support hiring, retaining, and training the public health workforce and strengthen public health infrastructure and systems related to the workforce and foundational capabilities in alignment with the Strengthening U.S. Public Health Infrastructure, Workforce, and Data Systems (Funding Opportunity Number CDC RFA OE22-2203) from the Centers for Disease Control and Prevention (CDC).
- B. Complete all activities required and allowable under this Contract by November 30, 2027 and complete all reports by the due dates listed in Article III.
- C. Perform required activities intended to help meet critical infrastructure needs and make possible strategic investments that will have lasting effects on public health agencies. Recipients should prioritize recruiting and hiring staff who are from the communities and populations served. Required activities include:
  - 1. Recruit and hire new public health personnel (professional, clinical, disease investigation, program and/or administrative); expand recruitment efforts; create new positions, improve hiring incentives; and create new hiring mechanisms. Personnel may be permanent full or part-time staff, temporary or term-limited staff, fellows, interns and/or contracted employees.
  - 2. Retain public health staff, strengthen retention incentives, and create promotional opportunities (e.g., career ladders, succession planning).
  - 3. Support and sustain the public health workforce and strengthen workplace well-being programs and expand engagement with the workforce to address their mental, emotional, and physical well-being.
  - 4. Train new and existing public health infrastructure grant staff and improve the quality and scope of training and professional development opportunities for staff.
  - 5. Strengthen workforce planning, systems, processes, and policies; maintain and upgrade human resource systems; identify ways to better collect and use workforce data; and identify policies that could facilitate more efficient and effective workplace development and management.
  - 6. Strengthen support for implementation of this grant.
- D. Agree that funds cannot be used for research, medical or clinical supplies, fund-raising activities, construction or major renovations, to supplant existing state or federal funds for activities, to purchase vehicles of any kind (including mobile medical clinics), or to fund an award to another party or provider who is ineligible. Any furniture/cubicle or uniform/scrub purchases will require PRIOR approval by System Agency. Funds cannot be used for the preparation, distribution, or use of any material (publicity or propaganda) intended to influence the enactment or modification of any federal or state legislation or to pay the salary or expenses of grant recipients, contract recipients, or agents that aim to support or defeat the enactment of legislation, regulation, administrative action, or any executive order proposed or pending before a legislative body beyond normal, recognized executive relationships.

**ATTACHMENT A**  
**STATEMENT OF WORK**  
**Strengthening U.S. Public Health Infrastructure, Workforce, and**  
**Data Systems**

- E. Comply with all applicable regulations, standards, and guidelines in effect on the beginning date of this Contract and as may be amended throughout the Grant Agreement term.
- F. Maintain an inventory of equipment, supplies defined as controlled assets, and real property that were purchased with grant funds. Grantee shall submit an annual cumulative report of the equipment, controlled assets and other property on HHS System Agency Grantee's Property Inventory Report form to the assigned System Agency Contract Manager by email not later than October 15 of each year. Controlled assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled assets are considered supplies. Equipment includes tangible nonexpendable personal property with an acquisition cost of \$5,000 or more and a useful life of more than one year.
- G. For budget transfers, submit a revised Categorical Budget Form to the System Agency Contract Manager, highlighting the areas affected.

Transferring funds between budget categories, other than the equipment and indirect cost categories, is allowable, but requires prior approval by System Agency and cannot exceed 25% of the total annual Contract value for each period ending on November 30. If the budget transfer(s) exceeds 25% of the total annual Contract value for a Contract period ending on November 30, alone or cumulatively, a Contract amendment is required.

After review, the System Agency Contract Manager shall provide notification of acceptance or disallowance to Grantee via email. If approved, the revised budget shall be deemed incorporated into the Contract.

**II. PERFORMANCE MEASURES**

System Agency will monitor the Grantee's performance of the requirements in this Statement of Work and compliance with the Contract's terms and conditions.

System Agency will develop performance measures in collaboration with the Grantee.

**III. REPORTING REQUIREMENTS**

- A. Grantee shall be required to submit the reports detailed below, together with any additional reports requested by System Agency as necessary to accomplish the objectives of and monitor compliance with this Contract. Grantee must submit reports in a format specified by the System Agency.
- B. Grantee will provide and submit written reports, by electronic mail, in the format specified by System Agency. Grantee shall maintain the source documentation used to develop the reports. All written reports should be titled with the Grantee name, address, email address,

**ATTACHMENT A**  
**STATEMENT OF WORK**  
**Strengthening U.S. Public Health Infrastructure, Workforce, and**  
**Data Systems**

telephone number, program name, contract or purchase order number, dates services were completed and/or products were delivered, the time period of the report, total invoice amount, and invoices paid to subgrantees for services received. Submit local health entity Strengthening U.S. Public Health Infrastructure, Workforce, and Data Systems progress reports and spend plans within the established timeframe designated by the System Agency, using the template provided by System Agency. Progress reports must include status updates on program activities and reporting progress through financial reports. Failure to submit a required report or additional requested information by the due dates provided by System Agency or upon request constitutes breach of contract and may result in delay of payment or cancellation of the Grant Agreement. Reports should be sent electronically to [DSHSPHInfrastructureCo-Ag@dshs.texas.com](mailto:DSHSPHInfrastructureCo-Ag@dshs.texas.com) and the assigned Contract Manager.

<b>Report</b>	<b>Frequency</b>	<b>Due Date</b>
Program and Financial Progress Reports	Twice per calendar year	June 10 and December 10
Final Performance Report	End of Contract	January 15, 2028
Invoices/Requests for Reimbursement	Once per month	The last business day of the month following the month in which expenses were incurred
Grantee's Property Inventory Report	Once per year	October 15 annually through 2027

- C. Submit the final performance report listed above that describes progress toward achieving the objectives and deliverables contained in this Contract to [DSHSPHInfrastructureCo-Ag@dshs.texas.com](mailto:DSHSPHInfrastructureCo-Ag@dshs.texas.com) and the assigned Contract Manager by January 15, 2028 (45 days after end of Contract period), using the template provided by System Agency.

**IV. INVOICE AND PAYMENT**

- A. Grantee shall submit requests for reimbursement of required services/deliverables monthly using the State of Texas Purchase Voucher (Form B-13), together with supporting documentation as directed by System Agency. Forms should be mailed, faxed or e-mailed to the addresses below. Invoices will be due the last business day of the month following the month in which expenses were incurred.
- B. Grantee shall submit a Financial Status Report (FSR) twice per calendar year for the term of the Contract, beginning on the effective date of the Contract through November 30, 2027.

<b>Contract</b>	<b>FSR Period 1</b>	<b>FSR 1 Due</b>	<b>FSR Period 2</b>	<b>FSR 2 Due</b>
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**ATTACHMENT A**  
**STATEMENT OF WORK**  
**Strengthening U.S. Public Health Infrastructure, Workforce, and**  
**Data Systems**

<b>Year</b>		<b>Dates</b>		<b>Dates</b>
1	Effective Date - May 31, 2023	June 30, 2023	June 1, 2023 - November 30, 2023	December 30, 2023
2	December 1, 2023 - May 31, 2024	June 30, 2024	June 1, 2024 - November 30, 2024	December 30, 2024
3	December 1, 2024 - May 31, 2025	June 30, 2025	June 1, 2025 - November 30, 2025	December 30, 2025
4	December 1, 2025 - May 31, 2026	June 30, 2026	June 1, 2026 - November 30, 2026	December 30, 2026
5	December 1, 2026 - May 31, 2027	June 30, 2027	June 1, 2027 - November 30, 2027	January 15, 2028

All reporting documents must be submitted by e-mail, fax, or mail. E-mail is preferred, but fax or mail is acceptable.

1. For submission by mail, use address below:

Department of State Health Services  
 Claims Processing Unit, MC 1940  
 P.O. Box 149347  
 Austin, TX 78714-9347

2. For submission by fax, use number below:

(512) 458-7442

3. For submission by e-mail, see requirements below:

- a. Form B-13 with supporting documentation and Form B-13A must be sent to [invoices@dshs.texas.gov](mailto:invoices@dshs.texas.gov) & [CMSInvoices@dshs.texas.gov](mailto:CMSInvoices@dshs.texas.gov), with a copy to the System Agency contract manager.
- b. FSR must be sent to: [invoices@dshs.texas.gov](mailto:invoices@dshs.texas.gov); [FSRGrants@dshs.texas.gov](mailto:FSRGrants@dshs.texas.gov); and with a copy to the System Agency contract manager.

C. Grantee will be reimbursed monthly in accordance with Attachment B, Budget, subject to all Contract requirements, applicable law and governing regulations.

Grantee shall include required and appropriate documentation with all reimbursement requests.

## ATTACHMENT B BUDGET

<b>Budget Categories</b>	<b>System Agency Funding Year 1</b>	<b>System Agency Funding Year 2</b>	<b>System Agency Funding Year 3</b>	<b>System Agency Funding Year 4</b>	<b>System Agency Funding Year 5</b>	<b>Summary</b>
<b>Personnel</b>	\$0.00	\$359,395.00	\$862,548.00	\$117,949.00	\$0.00	\$1,339,892.00
<b>Fringe Benefits</b>	\$0.00	\$163,884.00	\$393,322.00	\$53,785.00	\$0.00	\$610,991.00
<b>Travel</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Equipment</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Supplies</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Contractual</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Other</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Direct Costs</b>	\$0.00	\$523,279.00	\$1,255,870.00	\$171,734.00	\$0.00	\$1,950,883.00
<b>Indirect Costs</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Sum of Direct and Indirect Costs</b>	<b>\$0.00</b>	<b>\$523,279.00</b>	<b>\$1,255,870.00</b>	<b>\$171,734.00</b>	<b>\$0.00</b>	<b>\$1,950,883.00</b>

**HEALTH AND HUMAN SERVICES**  
**Contract Number HHS001310100001**  
**Attachment C **CONTRACT AFFIRMATIONS****

For purposes of these Contract Affirmations, HHS includes both the Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). System Agency refers to HHSC, DSHS, or both, that will be a party to this Contract. These Contract Affirmations apply to all Contractors and Grantees (referred to as “Contractor”) regardless of their business form (e.g., individual, partnership, corporation).

By entering into this Contract, Contractor affirms, without exception, understands, and agrees to comply with the following items through the life of the Contract:

**1.** Contractor represents and warrants that these Contract Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract and any related Solicitation.

**2. Complete and Accurate Information**

Contractor represents and warrants that all statements and information provided to HHS are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.

**3. Public Information Act**

Contractor understands that HHS will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

**4. Contracting Information Requirements**

Contractor represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

**5. Assignment**

- A. Contractor shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from System Agency. Any attempted assignment in violation of this provision is void and without effect.
- B. Contractor understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. Upon receipt of System Agency's notice of assignment, pledge, or transfer, Contractor shall cooperate with System Agency in giving effect to such assignment, pledge, or transfer, at no cost to System Agency or to the recipient entity.

**6. Terms and Conditions**

Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation, as well as terms and conditions advanced by Contractor that differ in any manner from HHS' terms and conditions, if any, are rejected unless expressly accepted by System Agency in writing.

**7. HHS Right to Use**

Contractor agrees that HHS has the right to use, produce, and distribute copies of and to disclose to HHS employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as HHS deems necessary to complete the procurement process or comply with state or federal laws.

**8. Release from Liability**

Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of System Agency.

**9. Dealings with Public Servants**

Contractor has not given, has not offered to give, and does not 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 this Contract or any related Solicitation, or related Solicitation Response.

**10. Financial Participation Prohibited**

Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

**11. Prior Disaster Relief Contract Violation**

Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract

and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

**12. Child Support Obligation**

Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate. If the certification is shown to be false, Contractor may be liable for additional costs and damages set out in 231.006(f).

**13. Suspension and Debarment**

Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.

**14. Excluded Parties**

Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*," published by the United States Department of the Treasury, Office of Foreign Assets Control.'

**15. Foreign Terrorist Organizations**

Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

**16. Executive Head of a State Agency**

In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

**17. Human Trafficking Prohibition**

Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

**18. Franchise Tax Status**

Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.

**19. Debts and Delinquencies**

Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

**20. Lobbying Prohibition**

Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

**21. Buy Texas**

Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.

**22. Disaster Recovery Plan**

Contractor agrees that upon request of System Agency, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.

**23. Computer Equipment Recycling Program**

If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.

**24. Television Equipment Recycling Program**

If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.

**25. Cybersecurity Training**

- A. Contractor represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.
- B. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.

**26. Restricted Employment for Certain State Personnel**

Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.

**27. No Conflicts of Interest**

- A. Contractor represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to System Agency under this Contract or any related Solicitation and that Contractor's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
- B. Contractor agrees that, if after execution of the Contract, Contractor discovers or is made aware of a Conflict of Interest, Contractor will immediately and fully disclose such interest in writing to System Agency. In addition, Contractor will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Contractor or by System Agency as a potential conflict. System Agency reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Contractor agrees to abide by System Agency's decision.

**28. Fraud, Waste, and Abuse**

Contractor understands that HHS does not tolerate any type of fraud, waste, or abuse. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Pursuant to Texas Government Code, Section 321.022, if the administrative head of a department or entity that is subject to audit by the state auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the Texas State Auditor's Office (SAO). All employees or contractors who have reasonable cause to believe that fraud, waste, or abuse has occurred (including misconduct by any HHS employee, Grantee officer, agent, employee, or subcontractor that would constitute fraud, waste, or abuse) are required to immediately report the questioned activity to the Health and Human Services Commission's Office of Inspector General. Contractor agrees to comply with all applicable laws, rules, regulations, and System Agency policies regarding fraud, waste, and abuse including, but not limited to, HHS Circular C-027.

A report to the SAO must be made through one of the following avenues:

- SAO Toll Free Hotline: 1-800-TX-AUDIT
- SAO website: <http://sao.fraud.state.tx.us/>

All reports made to the OIG must be made through one of the following avenues:

- OIG Toll Free Hotline 1-800-436-6184
- OIG Website: ReportTexasFraud.com
- Internal Affairs Email: InternalAffairsReferral@hhsc.state.tx.us
- OIG Hotline Email: OIGFraudHotline@hhsc.state.tx.us.
- OIG Mailing Address: Office of Inspector General  
Attn: Fraud Hotline  
MC 1300  
P.O. Box 85200  
Austin, Texas 78708-5200

**29. Antitrust**

The undersigned affirms under penalty of perjury of the laws of the State of Texas that:

- A. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- B. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any federal antitrust law; and
- C. neither I nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Contractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Contractor.

**30. Legal and Regulatory Actions**

Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Contractor or any of the individuals or entities included in numbered paragraph 1 of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to System Agency a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify System Agency in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update System Agency shall constitute breach of contract and may result in immediate contract termination.



**31. No Felony Criminal Convictions**

Contractor represents that neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, have been convicted of a felony criminal offense or that if such a conviction has occurred Contractor has fully advised System Agency in writing of the facts and circumstances surrounding the convictions.

**32. Unfair Business Practices**

Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

**33. Entities that Boycott Israel**

Contractor represents and warrants that (1) it does not, and shall not for the duration of the Contract, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

**34. E-Verify**

Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Contract to determine the eligibility of:

1. all persons employed by Contractor to perform duties within Texas; and
2. all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.

**35. Former Agency Employees – Certain Contracts**

If this Contract is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, in accordance with Section 2252.901 of the Texas Government Code, Contractor represents and warrants that neither Contractor nor any of Contractor's employees including, but not limited to, those authorized to provide services under the Contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the Contract.

**36. Disclosure of Prior State Employment – Consulting Services**

If this Contract is for consulting services,

A. In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, System Agency or another State of Texas agency at any time during the two years preceding the submission of Contractor’s offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:

1. Name of individual(s) (Contractor or employee(s));
2. Status;
3. The nature of the previous employment with HHSC or the other State of Texas agency;
4. The date the employment was terminated and the reason for the termination; and
5. The annual rate of compensation for the employment at the time of its termination.

B. If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by System Agency or any other State of Texas agency at any time during the two years preceding the submission of Contractor’s offer to provide services.

**37. Abortion Funding Limitation**

Contractor understands, acknowledges, and agrees that, pursuant to Article IX of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act:

1. performs an abortion procedure that is not reimbursable under the state’s Medicaid program;
2. is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state’s Medicaid program; or
3. is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the state’s Medicaid program.

The provision does not apply to a hospital licensed under Chapter 241, Health and Safety Code, or an office exempt under Section 245.004(2), Health and Safety Code. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article IX.

**38. Funding Eligibility**

Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Contractor certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code.

**39. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR 200.216)**

Contractor certifies that the individual or business entity named in this Response or Contract is not ineligible to receive the specified Contract or funding pursuant to 2 CFR 200.216.

**40. COVID-19 Vaccine Passports**

Pursuant to Texas Health and Safety Code, Section 161.0085(c), Contractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded contract.

**41. Entities that Boycott Energy Companies**

In accordance with Senate Bill 13, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies boycotting certain energy companies), Contractor represents and warrants that: (1) it does not, and will not for the duration of the Contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

**42. Entities that Discriminate Against Firearm and Ammunition Industries**

In accordance with Senate Bill 19, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies that discriminate against firearm and ammunition industries), Contractor verifies that: (1) it does not, and will not for the duration of the Contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

**43. Security Controls for State Agency Data**

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.138, Contractor understands, acknowledges, and agrees that if, pursuant to this Contract, Contractor is or will be authorized to access, transmit, use, or store data for System Agency, Contractor is required to meet the security controls the System Agency determines are proportionate with System Agency's risk under the Contract based on the sensitivity of System Agency's data and that Contractor must periodically provide to System Agency evidence that Contractor meets the security controls required under the Contract.

**44. Cloud Computing State Risk and Authorization Management Program (TX-RAMP)**

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.0593, Contractor acknowledges and agrees that, if providing cloud computing services for System Agency, Contractor must comply with the requirements of the state risk and authorization management program and that System Agency may not enter or renew a contract with Contractor to purchase cloud computing services for the agency that are subject to the state risk and authorization management program unless Contractor demonstrates compliance with program requirements. If providing cloud computing services for System Agency that are subject to the state risk and authorization management program, Contractor certifies it will maintain program compliance and certification throughout the term of the Contract.

**45. Office of Inspector General Investigative Findings Expert Review**

In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 531.102(m-1)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

**46. Contract for Professional Services of Physicians, Optometrists, and Registered Nurses**

In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2254.008(a)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

**47. Foreign-Owned Companies in Connection with Critical Infrastructure**

If Texas Government Code, Section 2274.0102(a)(1) (relating to prohibition on contracts with certain foreign-owned companies in connection with critical infrastructure) is applicable to this Contract, pursuant to Government Code Section 2274.0102, Contractor certifies that neither it nor its parent company, nor any affiliate of Contractor or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2274.0103, or (2) headquartered in any of those countries.

**48. Critical Infrastructure Subcontracts**

For purposes of this Paragraph, the designated countries are China, Iran, North Korea, Russia, and any countries lawfully designated by the Governor as a threat to critical infrastructure. Pursuant to Section 113.002 of the Business and Commerce Code, Contractor shall not enter into a subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business and Commerce Code, in this state, other than access specifically allowed for product warranty and support purposes to any subcontractor unless (i) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is majority owned or controlled by citizens or governmental entities of a designated country; and (ii) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is headquartered in a designated country. Contractor will notify the System Agency before entering into any subcontract that will provide direct or remote

access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business & Commerce Code, in this state.

**49. Enforcement of Certain Federal Firearms Laws Prohibited**

In accordance with House Bill 957, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2.101 is applicable to Contractor, Contractor certifies that it is not ineligible to receive state grant funds pursuant to Texas Government Code, Section 2.103.

**50. Prohibition on Abortions**

Contractor understands, acknowledges, and agrees that, pursuant to Article II of the General Appropriations Act, (1) no funds shall be used to pay the direct or indirect costs (including marketing, overhead, rent, phones, and utilities) of abortion procedures provided by contractors of HHSC; and (2) no funds appropriated for Medicaid Family Planning, Healthy Texas Women Program, or the Family Planning Program shall be distributed to individuals or entities that perform elective abortion procedures or that contract with or provide funds to individuals or entities for the performance of elective abortion procedures. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article II.

**51. False Representation**

Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

**52. False Statements**

Contractor represents and warrants that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material misrepresentation made by Contractor during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

**53. Permits and License**

Contractor represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.

**54. Equal Employment Opportunity**

Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

**55. Federal Occupational Safety and Health Law**

Contractor represents and warrants that all articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).

**56. Signature Authority**

Contractor represents and warrants that the individual signing this Contract Affirmations document is authorized to sign on behalf of Contractor and to bind the Contractor.

**Signature Page Follows**

**Authorized representative on behalf of Contractor must complete and sign the following:**

---

**Legal Name of Contractor**

---

**Assumed Business Name of Contractor, if applicable (d/b/a or ‘doing business as’)**

---

**Texas County(s) for Assumed Business Name (d/b/a or ‘doing business as’)**  
**Attach Assumed Name Certificate(s) filed with the Texas Secretary of State and Assumed Name Certificate(s), if any, for each Texas County Where Assumed Name Certificate(s) has been filed.**

---

**Signature of Authorized Representative**

---

**Date Signed**

---

**Printed Name of Authorized Representative  
First, Middle Name or Initial, and Last Name**

---

**Title of Authorized Representative**

---

**Physical Street Address**

---

**City, State, Zip Code**

---

**Mailing Address, if different**

---

**City, State, Zip Code**

---

**Phone Number**

---

**Fax Number**

---

**Email Address**

---

**DUNS Number**

---

**Federal Employer Identification Number**

---

**Texas Identification Number (TIN)**

---

**Texas Franchise Tax Number**

---

**Texas Secretary of State Filing  
Number**

---

**SAM.gov Unique Entity Identifier (UEI)**



# TEXAS

## Health and Human Services

**Health and Human Services (HHS)**

**Uniform Terms and Conditions - Grant**

**Version 3.2**

Published and Effective – July 2022

Responsible Office: Chief Counsel



## **ABOUT THIS DOCUMENT**

In this document, Grantees (also referred to in this document as subrecipients or contractors) will find requirements and conditions applicable to grant funds administered and passed-through by both the Texas Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). These requirements and conditions are incorporated into the Grant Agreement through acceptance by Grantee of any funding award by HHSC or DSHS.

The terms and conditions in this document are in addition to all requirements listed in the RFA, if any, under which applications for this grant award are accepted, as well as all applicable federal and state laws and regulations. Applicable federal and state laws and regulations may include, but are not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; requirements of the entity that awarded the funds to HHS; Chapter 783 of the Texas Government Code; Texas Comptroller of Public Accounts' agency rules (including Uniform Grant and Contract Standards set forth in Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code); the Texas Grant Management Standards (TxGMS) developed by the Texas Comptroller of Public Accounts; and the Funding Announcement, Solicitation, or other instrument/documentation under which HHS was awarded funds. HHS, in its sole discretion, reserves the right to add requirements, terms, or conditions.

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## ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

### 1.1 DEFINITIONS

As used in this Grant Agreement, unless a different definition is specified, or the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

“[Amendment](#)” means a written agreement, signed by the Parties, which documents changes to the Grant Agreement.

“[Contract](#)” or “[Grant Agreement](#)” means the agreement entered into by the Parties, including the Signature Document, these Uniform Terms and Conditions, along with any attachments and amendments that may be issued by the System Agency.

“[Deliverables](#)” means the goods, services, and work product, including all reports and project documentation, required to be provided by Grantee to the System Agency.

“[DSHS](#)” means the Department of State Health Services.

“[Effective Date](#)” means the date on which the Grant Agreement takes effect.

“[Federal Fiscal Year](#)” means the period beginning October 1 and ending September 30 each year, which is the annual accounting period for the United States government.

“[GAAP](#)” means Generally Accepted Accounting Principles.

“[GASB](#)” means the Governmental Accounting Standards Board.

“[Grantee](#)” means the Party receiving funds under this Grant Agreement. May also be referred to as “subrecipient” or “contractor” in this document.

“[HHSC](#)” means the Texas Health and Human Services Commission.

“[Health and Human Services](#)” or “[HHS](#)” includes HHSC and DSHS.

“[Intellectual Property Rights](#)” means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such right may be evidenced by or embodied in:

- i. any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement;
- ii. any work of authorship, including any compilation, computer code, website or web page design, literary work, pictorial work, or graphic work;
- iii. any trademark, service mark, trade dress, trade name, branding, or other indicia of source or origin;
- iv. domain name registrations; and
- v. any other proprietary or similar rights. The Intellectual Property Rights of a Party include all worldwide proprietary rights or interests that the Party may have acquired by assignment, by exclusive license, or by license with the right to grant sublicenses.

“[Parties](#)” means the System Agency and Grantee, collectively.

“[Party](#)” means either the System Agency or Grantee, individually.

“[Project](#)” means specific activities of the Grantee that are supported by funds provided under this Grant Agreement.

“[Signature Document](#)” means the document executed by all Parties for this Grant Agreement.

“[Solicitation](#),” “[Funding Announcement](#)” or “[Request for Applications \(RFA\)](#)” means the document (including all exhibits, attachments, and published addenda), issued by the System Agency under which applications for grant funds were requested, which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

“[Solicitation Response](#)” or “[Application](#)” means Grantee’s full and complete Solicitation response (including any attachments and addenda), which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

“[State Fiscal Year](#)” means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

“[State of Texas Textravel](#)” means the Texas Comptroller of Public Accounts’ state travel rules, policies, and guidelines.

“[Statement of Work](#)” means the description of activities Grantee must perform to complete the Project, as specified in the Grant Agreement and as may be amended.

“[System Agency](#)” means HHSC or DSHS, as applicable.

“[Work Product](#)” means any and all works, including work papers, notes, materials, approaches, designs, specifications, systems, innovations, improvements, inventions, software, programs, source code, documentation, training materials, audio or audiovisual recordings, methodologies, concepts, studies, reports, whether finished or unfinished, and whether or not included in the deliverables, that are developed, produced, generated or provided by Grantee in connection with Grantee’s performance of its duties under the Grant Agreement or through use of any funding provided under this Grant Agreement.

“[Texas Grant Management Standards](#)” or “[TxGMS](#)” means uniform grant and contract administration procedures, developed under the authority of Chapter 783 of the Texas Government Code, to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies. Under this Grant Agreement, TxGMS applies to Grantee except as otherwise provided by applicable law or directed by System Agency. Additionally, except as otherwise provided by applicable law, in the event of a conflict between TxGMS and applicable federal or state law, federal law prevails over state law and state law prevails over TxGMS.

## **1.2 INTERPRETIVE PROVISIONS**

- A. The meanings of defined terms include the singular and plural forms.
- B. The words “hereof,” “herein,” “hereunder,” and similar words refer to this Grant Agreement as a whole and not to any particular provision, section, attachment, or schedule of this Grant Agreement unless otherwise specified.
- C. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Grant Agreement, (i) references to contracts

(including this Grant Agreement) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Grant Agreement, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.

- D. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Grant Agreement are references to these documents as amended, modified, or supplemented during the term of the Grant Agreement.
- E. The captions and headings of this Grant Agreement are for convenience of reference only and do not affect the interpretation of this Grant Agreement.
- F. All attachments, including those incorporated by reference, and any Amendments are considered part of the terms of this Grant Agreement.
- G. This Grant Agreement may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative.
- H. Unless otherwise expressly provided, reference to any action of the System Agency or by the System Agency by way of consent, approval, or waiver will be deemed modified by the phrase “in its sole discretion.”
- I. Time is of the essence in this Grant Agreement.
- J. Prior to execution of the Grant Agreement, Grantee must notify System Agency’s designated contact in writing of any ambiguity, conflict, discrepancy, omission, or other error. If Grantee fails to notify the System Agency designated contact of any ambiguity, conflict, discrepancy, omission or other error in the Grant Agreement prior to Grantee’s execution of the Grant Agreement, Grantee:
  - i. Shall have waived any claim of error or ambiguity in the Grant Agreement; and
  - ii. Shall not contest the interpretation by the System Agency of such provision(s).

No grantee will be entitled to additional reimbursement, relief, or time by reason of any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error or its later correction.

## **ARTICLE II. PAYMENT PROVISIONS**

### **2.1 PROMPT PAYMENT**

Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

### **2.2 TAXES**

Grantee represents and warrants that it shall pay all taxes or similar amounts resulting from the Grant Agreement, including, but not limited to, any federal, State, or local income, sales or excise taxes of Grantee or its employees. System Agency shall not be liable for any taxes resulting from the Grant Agreement.

## **2.3 ANCILLARY AND TRAVEL EXPENSES**

- A. Except as otherwise provided in the Grant Agreement, no ancillary expenses incurred by the Grantee in connection with its provision of the services or deliverables will be reimbursed by the System Agency. Ancillary expenses include, but are not limited to, costs associated with transportation, delivery, and insurance for each deliverable.
- B. Except as otherwise provided in the Grant Agreement, when the reimbursement of travel expenses is authorized by the Grant Agreement, all such expenses will be reimbursed in accordance with the rates set by the Texas Comptroller's *Texttravel* guidelines, which can currently be accessed at: <https://fmx.cpa.texas.gov/fmx/travel/texttravel/>.

## **2.4 BILLING**

Unless otherwise provided in the Grant Agreement, Grantee shall bill the System Agency in accordance with the Grant Agreement. Unless otherwise specified in the Grant Agreement, Grantee shall submit requests for reimbursement or payment monthly by the last business day of the month following the month in which expenses were incurred or services provided. Grantee shall maintain all documentation that substantiates invoices and make the documentation available to the System Agency upon request.

## **2.5 USE OF FUNDS**

Grantee shall expend funds under this Grant Agreement only for approved services and for reasonable and allowable expenses directly related to those services.

## **2.6 USE FOR MATCH PROHIBITED**

Grantee shall not use funds provided under this Grant Agreement for matching purposes in securing other funding without the written approval of the System Agency.

## **2.7 PROGRAM INCOME**

Program income refers to gross income directly generated by a supporting activity during the period of performance. Unless otherwise required under the Grant Agreement, Grantee shall use Program Income, as provided in TxGMS, to further the Project, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report Program Income in accordance with the Grant Agreement, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Grant Agreement term, when earned, and may not carry Program Income forward to any succeeding term. Grantee shall refund Program Income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using Program Income for the purposes and under the conditions specified in this Grant Agreement.

## **2.8 NONSUPPLANTING**

Grant funds must be used to supplement existing, new or corresponding programming and related activities. Grant funds may not be used to supplant (replace) existing funds that have been appropriated, allocated, or disbursed for the same purpose. System Agency may conduct Grant monitoring or audits may be conducted to review, among other things, Grantee's compliance with this provision.



## **2.9 INDIRECT COST RATES**

The System Agency may acknowledge an indirect cost rate for Grantees that is utilized for all applicable Grant Agreements. For subrecipients receiving federal funds, indirect cost rates will be determined in accordance with applicable law including, but not limited to, 2 CFR 200.414(f). For recipients receiving state funds, indirect costs will be determined in accordance with applicable law including, but not limited to, TxGMS. Grantees funded with blended federal and state funding will be subject to both state and federal requirements when determining indirect costs. In the event of a conflict between TxGMS and applicable federal law or regulation, the provisions of federal law or regulation will apply. Grantee will provide any necessary financial documents to determine the indirect cost rate in accordance with the Uniform Grant Guidance (UGG) and TxGMS.

## **ARTICLE III. STATE AND FEDERAL FUNDING**

### **3.1 EXCESS OBLIGATIONS PROHIBITED**

This Grant Agreement is subject to termination or cancellation, without penalty to System Agency, either in whole or in part, subject to the availability and actual receipt by System Agency of state or federal funds. System Agency is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If System Agency becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render either System Agency's or Grantee's delivery or performance under the Grant Agreement impossible or unnecessary, the Grant Agreement will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, System Agency will not be liable to Grantee for any damages that are caused or associated with such termination or cancellation, and System Agency will not be required to give prior notice. Additionally, System Agency will not be liable to Grantee for any remaining unpaid funds under this Grant Agreement at time of termination.

### **3.2 NO DEBT AGAINST THE STATE**

This Grant Agreement will not be construed as creating any debt by or on behalf of the State of Texas.

### **3.3 DEBTS AND DELINQUENCIES**

Grantee agrees that any payments due under the Grant Agreement shall be directly applied towards eliminating any debt or delinquency it has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support during the entirety of the Grant Agreement term.

### **3.4 REFUNDS AND OVERPAYMENTS**

A. At its sole discretion, the System Agency may (i) withhold all or part of any payments to Grantee to offset overpayments, unallowable or ineligible costs made to the Grantee, or if any required financial status report(s) is not submitted by the due date(s); or (ii) require Grantee to promptly refund or credit - within thirty (30) calendar days of written notice – to System Agency any funds erroneously paid by System Agency which are not expressly authorized under the Grant Agreement.

- B. “Overpayments” as used in this Section include payments (i) made by the System Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Grant Agreement, including any unapproved expenditures. Grantee understands and agrees that it shall be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Grant Agreement. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Grant Agreement.

## **ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS**

### **4.1 ALLOWABLE COSTS**

- A. Allowable Costs are restricted to costs that are authorized under Texas Uniform Grant Management Standards (TxGMS) and applicable state and federal rules and laws. This Grant Agreement is subject to all applicable requirements of TxGMS, including the criteria for Allowable Costs. Additional federal requirements apply if this Grant Agreement is funded, in whole or in part, with federal funds.
- B. System Agency will reimburse Grantee for actual, allowable, and allocable costs incurred by Grantee in performing the Project, provided the costs are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Grant Agreement. At its sole discretion, the System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. The System Agency may take repayment (recoup) from remaining funds available under this Grant Agreement in amounts necessary to fulfill Grantee’s repayment obligations. Grantee and all payments received by Grantee under this Grant Agreement are subject to applicable cost principles, audit requirements, and administrative requirements including applicable provisions under 2 CFR 200, 48 CFR Part 31, and TxGMS.
- C. OMB Circulars will be applied with the modifications prescribed by TxGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

### **4.2 AUDITS AND FINANCIAL STATEMENTS**

- A. Audits
  - i. Grantee understands and agrees that Grantee is subject to any and all applicable audit requirements found in state or federal law or regulation or added by this Grant Agreement
  - ii. HHS Single Audit Unit will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the form within thirty (30) calendar days after receipt of notice, Grantee maybe subject to sanctions and remedies for non-compliance.
  - iii. If Grantee, within Grantee’s fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The federal

threshold amount includes federal funds passed through by way of state agency awards.

- iv. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in state funds awarded, Grantee shall have a single audit or program-specific audit in accordance with TxGMS. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and TxGMS.
  - v. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or TxGMS, as applicable, for their program-specific audits.
  - vi. Each Grantee required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with applicable provisions of 2 CFR 200 and TxGMS.
- B. Financial Statements.
- Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements for the audit period.

#### **4.3 SUBMISSION OF AUDITS AND FINANCIAL STATEMENTS**

##### **A. Audits.**

Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit one electronic copy of the single audit or program-specific audit to the System Agency via:

- i. HHS portal at <https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau> or,
- ii. Email to: [single\\_audit\\_report@hhsc.state.tx.us](mailto:single_audit_report@hhsc.state.tx.us).

##### **B. Financial Statements.**

Due no later than nine months after the Grantee's fiscal year-end, Grantees not required to submit an audit, shall submit one electronic copy of their financial statements via:

- i. HHS portal at <https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau>; or,
- ii. Email to: [single\\_audit\\_report@hhsc.state.tx.us](mailto:single_audit_report@hhsc.state.tx.us).

## **ARTICLE V. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS**

### **5.1 WARRANTY**

Grantee warrants that all work under this Grant Agreement shall be completed in a manner consistent with standards under the terms of this Grant Agreement, in the applicable trade, profession, or industry; shall conform to or exceed the specifications set forth in the Grant Agreement; and all deliverables shall be fit for ordinary use, of good quality, and with no material defects. If System Agency, in its sole discretion, determines Grantee has failed to complete work timely or to perform satisfactorily under conditions required by this Grant Agreement, the System Agency may require Grantee, at its sole expense, to:

- i. Repair or replace all defective or damaged work;
- ii. Refund any payment Grantee received from System Agency for all defective or damaged work and, in conjunction therewith, require Grantee to accept the return of such work; and,

- iii. Take necessary action to ensure that Grantee's future performance and work conform to the Grant Agreement requirements.

## **5.2 GENERAL AFFIRMATIONS**

Grantee certifies that, to the extent affirmations are incorporated into the Grant Agreement, the Grantee has reviewed the affirmations and that Grantee is in compliance with all requirements.

## **5.3 FEDERAL ASSURANCES**

Grantee further certifies that, to the extent federal assurances are incorporated into the Grant Agreement, the Grantee has reviewed the federal assurances and that Grantee is in compliance with all requirements.

## **5.4 FEDERAL CERTIFICATIONS**

Grantee further certifies that, to the extent federal certifications are incorporated into the Grant Agreement, the Grantee has reviewed the federal certifications and that Grantee is in compliance with all requirements. In addition, Grantee certifies that it is in compliance with all applicable federal laws, rules, and regulations, as they may pertain to this Grant Agreement.

## **5.5 STATE ASSURANCES**

Except to the extent of any conflict under applicable law or requirements or guidelines of any federal awarding agency from which funding for this Grant Agreement originated, the Grantee must comply with the applicable state assurances included within the TxGMS which are incorporated here by reference.

# **ARTICLE VI. INTELLECTUAL PROPERTY**

## **6.1 OWNERSHIP OF WORK PRODUCT**

- A. All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency.
- B. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Grantee hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing.
- C. Grantee agrees to execute all papers and to perform such other acts as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned.

- D. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.
- E. The foregoing does not apply to Incorporated Pre-existing Works or Third Party IP that are incorporated in the Work Product by Grantee. Grantee shall provide System Agency access during normal business hours to all Grantee materials, premises, and computer files containing the Work Product.

## 6.2 GRANTEE'S PRE-EXISTING WORKS

- A. To the extent that Grantee incorporates into the Work Product any works of Grantee that were created by Grantee or that Grantee acquired rights in prior to the Effective Date of this Grant Agreement ("**Incorporated Pre-existing Works**"), Grantee retains ownership of such Incorporated Pre-existing Works.
- B. Grantee hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, reproduce, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product.
- C. Grantee represents, warrants, and covenants to System Agency that Grantee has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

## 6.3 THIRD PARTY IP

- A. To the extent that any Third Party IP is included or incorporated in the Work Product by Grantee, Grantee hereby grants to System Agency, or shall obtain from the applicable third party for System Agency's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for System Agency's internal business or governmental purposes only, to use, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Third Party IP and any derivative works thereof embodied in or delivered to System Agency in conjunction with the Work Product, and to authorize others to do any or all of the foregoing.
- B. Grantee shall obtain System Agency's advance written approval prior to incorporating any Third Party IP into the Work Product, and Grantee shall notify System Agency on delivery of the Work Product if such materials include any Third Party IP.
- C. Grantee shall provide System Agency all supporting documentation demonstrating Grantee's compliance with this Section 6.3, including without limitation documentation indicating a third party's written approval for Grantee to use any Third Party IP that may be incorporated in the Work Product.

## 6.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS

Grantee shall have written, binding agreements with its employees and subcontractors that include provisions sufficient to give effect to and enable Grantee's compliance with Grantee's obligations under this Article VI, Intellectual Property.

## **6.5 DELIVERY UPON TERMINATION OR EXPIRATION**

No later than the first calendar day after the termination or expiration of the Grant Agreement or upon System Agency's request, Grantee shall deliver to System Agency all completed, or partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Grantee's failure to timely deliver such Work Product is a material breach of the Grant Agreement. Grantee will not retain any copies of the Work Product or any documentation or other products or results of Grantee's activities under the Grant Agreement without the prior written consent of System Agency.

## **6.6 SURVIVAL**

The provisions and obligations of this Article survive any termination or expiration of the Grant Agreement.

## **6.7 SYSTEM AGENCY DATA**

- A. As between the Parties, all data and information acquired, accessed, or made available to Grantee by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Grantee in the course of providing data processing services in connection with Grantee's performance hereunder (the "System Agency Data"), is owned solely by System Agency.
- B. Grantee has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Grantee to fulfill its obligations under the Grant Agreement or as authorized in advance in writing by System Agency.
- C. For the avoidance of doubt, Grantee is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.
- D. Grantee shall make System Agency Data available to System Agency, including to System Agency's designated vendors, as directed in writing by System Agency. The foregoing shall be at no cost to System Agency.
- E. Furthermore, the proprietary nature of Grantee's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Grantee's performance of its obligations hereunder.

# **ARTICLE VII. PROPERTY**

## **7.1 USE OF STATE PROPERTY**

- A. Grantee is prohibited from using State Property for any purpose other than performing Services authorized under the Grant Agreement.
- B. State Property includes, but is not limited to, System Agency's office space, identification badges, System Agency information technology equipment and networks (*e.g.*, laptops, portable printers, cell phones, iPads or tablets, external hard drives, data storage devices, any System Agency-issued software, and the System Agency Virtual Private Network (VPN client)), and any other resources of System Agency.

- C. Grantee shall not remove State Property from the continental United States. In addition, Grantee may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
- D. Grantee shall not perform any maintenance services on State Property unless the Grant Agreement expressly authorizes such Services.
- E. During the time that State Property is in the possession of Grantee, Grantee shall be responsible for:
  - i. all repair and replacement charges incurred by State Agency that are associated with loss of State Property or damage beyond normal wear and tear, and
  - ii. all charges attributable to Grantee's use of State Property that exceeds the Grant Agreement scope. Grantee shall fully reimburse such charges to System Agency within ten (10) calendar days of Grantee's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Grant Agreement shall constitute breach of contract and may result in termination of the Grant Agreement and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

## **7.2 DAMAGE TO STATE PROPERTY**

- A. In the event of loss, destruction, or damage to any System Agency or State of Texas owned, leased, or occupied property or equipment by Grantee or Grantee's employees, agents, Subcontractors, or suppliers, Grantee shall be liable to System Agency and the State of Texas for the full cost of repair, reconstruction, or replacement of the lost, destroyed, or damaged property.
- B. Grantee shall notify System Agency of the loss, destruction, or damage of equipment or property within one (1) business day. Grantee shall reimburse System Agency and the State of Texas for such property damage within ten (10) calendar days after Grantee's receipt of System Agency's notice of amount due.

## **7.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT**

In the event the Grant Agreement is terminated for any reason or expires, State Property remains the property of the System Agency and must be returned to the System Agency by the earlier of the end date of the Grant Agreement or upon System Agency's request.

## **7.4 EQUIPMENT AND PROPERTY**

- A. The Grantee must ensure equipment with a per-unit cost of \$5,000 or greater purchased with grant funds under this award is used solely for the purpose of this Grant or is properly pro-rated for use under this Grant. Grantee must have control systems to prevent loss, damage, or theft of property funded under this Grant. Grantee shall maintain equipment management and inventory procedures for equipment, whether acquired in part or whole with grant funds, until disposition occurs.
- B. When equipment acquired by Grantee under this Grant Agreement is no longer needed for the original project or for other activities currently supported by System Agency, the Grantee must properly dispose of the equipment pursuant to 2 CFR and/or TxGMS, as applicable. Upon termination of this Grant Agreement, use and disposal of equipment by the Grantee shall conform with TxGMS requirements.
- C. Grantee shall initiate the purchase of all equipment approved in writing by the System Agency in accordance with the schedule approved by System Agency, as applicable.

Failure to timely initiate the purchase of equipment may result in the loss of availability of funds for the purchase of equipment. Requests to purchase previously approved equipment after the first quarter in the Grant Agreement must be submitted to the assigned System Agency contract manager.

- D. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets are considered supplies.
- E. System Agency funds must not be used to purchase buildings or real property without prior written approval from System Agency. Any costs related to the initial acquisition of the buildings or real property are not allowable without written pre-approval.

## **ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY**

### **8.1 RECORD MAINTENANCE AND RETENTION**

- A. Grantee shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Grant Agreement and all state and federal rules, regulations, and statutes.
- B. Grantee shall maintain and retain legible copies of this Grant Agreement and all records relating to the performance of the Grant Agreement, including supporting fiscal documents adequate to ensure that claims for grant funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by the Grantee for a minimum of seven (7) years after the Grant Agreement expiration date or seven (7) years after all audits, claims, litigation or disputes involving the Grant Agreement are resolved, whichever is later.

### **8.2 AGENCY'S RIGHT TO AUDIT**

- A. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Grantee pertaining to the Grant Agreement for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas.
- B. In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors shall permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Grant Agreement. If the Grant Agreement includes federal funds, federal agencies that shall have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized



representatives. In addition, agencies of the State of Texas that shall have a right of access to records as described in this section include: the System Agency, HHS's contracted examiners, the State Auditor's Office, the Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority.

- C. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Grantee shall produce original documents related to this Grant Agreement.
- D. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings.
- E. Grantee shall include this provision concerning the right of access to, and examination of, sites and information related to this Grant Agreement in any Subcontract it awards.

### **8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS**

- A. Grantee must act to ensure its and its Subcontractors' compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of the Grant Agreement and the services and Deliverables provided. Any such correction will be at Grantee's or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance shall be solely the decision of the System Agency.
- B. As part of the services, Grantee must provide to HHS upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the services and Deliverables provided to the State under the Grant Agreement.

### **8.4 STATE AUDITOR'S RIGHT TO AUDIT**

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement. The acceptance of funds directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement acts as acceptance of the authority of the state auditor, 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, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

### **8.5 CONFIDENTIALITY**

Grantee shall maintain as confidential and shall not disclose to third parties without System Agency's prior written consent, any System Agency information including but not limited to System Agency's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Grant Agreement. This requirement must be included in all subcontracts awarded by Grantee.

## **ARTICLE IX. GRANT REMEDIES, TERMINATION AND PROHIBITED ACTIVITIES**

### **9.1 REMEDIES**

- A. To ensure Grantee's full performance of the Grant Agreement and compliance with applicable law, System Agency reserves the right to hold Grantee accountable for breach of contract or substandard performance and may take remedial or corrective actions, including, but not limited to the following:
- i. temporarily withholding cash disbursements or reimbursements pending correction of the deficiency;
  - ii. disallowing or denying use of funds for the activity or action deemed not to be in compliance;
  - iii. disallowing claims for reimbursement that may require a partial or whole return of previous payments or reimbursements;
  - iv. suspending all or part of the Grant Agreement;
  - v. requiring the Grantee to take specific actions in order to remain in compliance with the Grant Agreement;
  - vi. recouping payments made by the System Agency to the Grantee found to be in error;
  - vii. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
  - viii. prohibiting the Grantee from receiving additional funds for other grant programs administered by the System Agency until satisfactory compliance resolution is obtained;
  - ix. withholding release of new grant agreements; and
  - x. imposing any other remedies, sanctions or penalties authorized under this Grant Agreement or permitted by federal or state statute, law, regulation or rule.
- B. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended.
- C. No action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as a waiver of any other rights or remedies available to System Agency under the Grant Agreement or pursuant to law. Additionally, no action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as an acceptance, waiver, or cure of Grantee's breach. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended or after termination.

### **9.2 TERMINATION FOR CONVENIENCE**

The System Agency may terminate the Grant Agreement, in whole or in part, at any time when, in its sole discretion, the System Agency determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in the System Agency's notice of termination.

### **9.3 TERMINATION FOR CAUSE**

- A. Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Grant Agreement, in whole or in part, upon either of the following conditions:

**i. Material Breach**

The System Agency may terminate the Grant Agreement, in whole or in part, if the System Agency determines, in its sole discretion, that Grantee has materially breached the Grant Agreement or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, whether or not such violation prevents or substantially impairs performance of Grantee's duties under the Grant Agreement. Grantee's misrepresentation in any aspect including, but not limited to, of Grantee's Solicitation Application, if any, or Grantee's addition to the SAM exclusion list (identification in SAM as an excluded entity) may also constitute a material breach of the Grant Agreement.

**ii. Failure to Maintain Financial Viability**

The System Agency may terminate the Grant Agreement if the System Agency, in its sole discretion, determines that Grantee no longer maintains the financial viability required to complete the services and deliverables, or otherwise fully perform its responsibilities under the Grant Agreement.

- B. System Agency will specify the effective date of such termination in the notice to Grantee. If no effective date is specified, the Grant Agreement will terminate on the date of the notification.

#### **9.4 GRANTEE RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS**

If the System Agency terminates the Grant Agreement for cause, the Grantee shall be responsible to the System Agency for all costs incurred by the System Agency and the State of Texas to replace the Grantee. These costs include, but are not limited to, the costs of procuring a substitute grantee and the cost of any claim or litigation attributable to Grantee's failure to perform any work in accordance with the terms of the Grant Agreement.

#### **9.5 INHERENTLY RELIGIOUS ACTIVITIES**

Grantee may not use grant funding to engage in inherently religious activities, such as proselytizing, scripture study, or worship. Grantees may engage in inherently religious activities; however, these activities must be separate in time or location from the grant-funded program. Moreover, grantees must not compel program beneficiaries to participate in inherently religious activities. These requirements apply to all grantees, not just faith-based organizations.

#### **9.6 POLITICAL ACTIVITIES**

Grant funds cannot be used for the following activities:

- A. Grantees and their relevant sub-grantees or subcontractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying, advocating for legislation, campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties, and voter registration campaigns. Grantees may use private, or non-System Agency money or contributions for political purposes but may not charge to, or be reimbursed from, System Agency contracts or grants for the costs of such activities.
- B. Grant-funded employees may not use official authority or influence to achieve any political purpose and grant funds cannot be used for the salary, benefits, or any other compensation of an elected official.

- C. Grant funds may not be used to employ, in any capacity, a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist. Additionally, grant funds cannot be used to pay membership dues to an organization that partially or wholly pays the salary of a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist.
- D. As applicable, Grantee will comply with 31 USC § 1352, relating to the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.

## **ARTICLE X. INDEMNITY**

### **10.1 GENERAL INDEMNITY**

- A. GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE GRANT AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE GRANT AGREEMENT.**
- B. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.**
- C. For the avoidance of doubt, System Agency shall not indemnify Grantee or any other entity under the Grant Agreement.**

### **10.2 INTELLECTUAL PROPERTY**

**GRANTEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE SYSTEM AGENCY AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM:**

- i. THE PERFORMANCE OR ACTIONS OF GRANTEE PURSUANT TO THIS GRANT AGREEMENT;**
- ii. ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR**
- iii. SYSTEM AGENCY'S AND/OR GRANTEE'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO SYSTEM AGENCY BY GRANTEE OR OTHERWISE TO WHICH SYSTEM**

**AGENCY HAS ACCESS AS A RESULT OF GRANTEE'S PERFORMANCE UNDER THE GRANT AGREEMENT.**

**10.3 ADDITIONAL INDEMNITY PROVISIONS**

- A. GRANTEE AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY INDEMNITY CLAIM. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES.**
- B. THE DEFENSE SHALL BE COORDINATED BY THE GRANTEE WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL.**
- C. GRANTEE SHALL REIMBURSE SYSTEM AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE SYSTEM AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF GRANTEE OR IF SYSTEM AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, SYSTEM AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND GRANTEE SHALL PAY ALL REASONABLE COSTS OF SYSTEM AGENCY'S COUNSEL.**

**ARTICLE XI. GENERAL PROVISIONS**

**11.1 AMENDMENTS**

Except as otherwise expressly provided, the Grant Agreement may only be amended by a written Amendment executed by both Parties.

**11.2 NO QUANTITY GUARANTEES**

The System Agency makes no guarantee of volume or usage of work under this Grant Agreement. All work requested may be on an irregular and as needed basis throughout the Grant Agreement term.

**11.3 CHILD ABUSE REPORTING REQUIREMENTS**

- A. Grantees shall comply with child abuse and neglect reporting requirements in Texas Family Code Chapter 261. This section is in addition to and does not supersede any other legal obligation of the Grantee to report child abuse.**
- B. Grantee shall use the Texas Abuse Hotline Website located at <https://www.txabusehotline.org/Login/Default.aspx> as required by the System Agency. Grantee shall retain reporting documentation on site and make it available for inspection by the System Agency.**

#### **11.4 CERTIFICATION OF MEETING OR EXCEEDING TOBACCO-FREE WORKPLACE POLICY MINIMUM STANDARDS**

- A. Grantee certifies that it has adopted and enforces a Tobacco-Free Workplace Policy that meets or exceeds all of the following minimum standards of:
- i. Prohibiting the use of all forms of tobacco products, including but not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff and chewing tobacco;
  - ii. Designating the property to which this Policy applies as a "designated area," which must at least comprise all buildings and structures where activities funded under this Grant Agreement are taking place, as well as Grantee owned, leased, or controlled sidewalks, parking lots, walkways, and attached parking structures immediately adjacent to this designated area;
  - iii. Applying to all employees and visitors in this designated area; and
  - iv. Providing for or referring its employees to tobacco use cessation services.
- B. If Grantee cannot meet these minimum standards, it must obtain a waiver from the System Agency.

#### **11.5 INSURANCE AND BONDS**

Unless otherwise specified in this Contract, Grantee shall acquire and maintain, for the duration of this Contract, insurance coverage necessary to ensure proper fulfillment of this Contract and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry as determined by the System Agency. Grantee shall provide evidence of insurance as required under this Contract, including a schedule of coverage or underwriter's schedules establishing to the satisfaction of the System Agency the nature and extent of coverage granted by each such policy, upon request by the System Agency. In the event that any policy is determined by the System Agency to be deficient to comply with the terms of this Contract, Grantee shall secure such additional policies or coverage as the System Agency may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Grantee must produce renewal certificates for each type of coverage. In addition, if required by System Agency, Grantee must obtain and have on file a blanket fidelity bond that indemnifies System Agency against the loss or theft of any grant funds, including applicable matching funds. The fidelity bond must cover the entirety of the grant term and any subsequent renewals. The failure of Grantee to comply with these requirements may subject Grantee to remedial or corrective actions detailed in section 10.1, General Indemnity, above.

These and all other insurance requirements under the Grant apply to both Grantee and its Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

#### **11.6 LIMITATION ON AUTHORITY**

- A. Grantee shall not have any authority to act for or on behalf of the System Agency or the State of Texas except as expressly provided for in the Grant Agreement; no other authority, power, or use is granted or implied. Grantee may not incur any debt,

obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.

- B. Grantee may not rely upon implied authority and is not granted authority under the Grant Agreement to:
- i. Make public policy on behalf of the System Agency;
  - ii. Promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of a System Agency program; or
  - iii. Unilaterally communicate or negotiate with any federal or state agency or the Texas Legislature on behalf of the System Agency regarding System Agency programs or the Grant Agreement. However, upon System Agency request and with reasonable notice from System Agency to the Grantee, the Grantee shall assist the System Agency in communications and negotiations regarding the Work under the Grant Agreement with state and federal governments.

### **11.7 CHANGE IN LAWS AND COMPLIANCE WITH LAWS**

Grantee shall comply with all laws, regulations, requirements and guidelines applicable to a Grantee providing services and products required by the Grant Agreement to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended throughout the term of the Grant Agreement. Notwithstanding Section 11.1, Amendments, above, System Agency reserves the right, in its sole discretion, to unilaterally amend the Grant Agreement to incorporate any modifications necessary for System Agency's compliance, as an agency of the State of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.

### **11.8 SUBCONTRACTORS**

Grantee may not subcontract any or all of the Work and/or obligations under the Grant Agreement without prior written approval of the System Agency. Subcontracts, if any, entered into by the Grantee shall be in writing and be subject to the requirements of the Grant Agreement. Should Grantee subcontract any of the services required in the Grant Agreement, Grantee expressly understands and acknowledges System Agency is in no manner liable to any subcontractor(s) of Grantee. In no event shall this provision relieve Grantee of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Grant Agreement.

### **11.9 PERMITTING AND LICENSURE**

At Grantee's sole expense, Grantee shall procure and maintain for the duration of this Grant Agreement any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Grantee to provide the goods or services required by this Grant Agreement. Grantee shall be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee shall be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Grant Agreement.

### **11.10 INDEPENDENT CONTRACTOR**

Grantee and Grantee's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services

under the Grant Agreement. Neither Grantee nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. The Grantee is not a "governmental body" solely by virtue of this Grant Agreement or receipt of grant funds under this Grant Agreement. Grantee shall have no claim against System Agency for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The Grant Agreement shall not create any joint venture, partnership, agency, or employment relationship between Grantee and System Agency.

#### **11.11 GOVERNING LAW AND VENUE**

The Grant Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Grant Agreement is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the System Agency.

#### **11.12 SEVERABILITY**

If any provision contained in this Grant Agreement is held to be unenforceable by a court of law or equity, such construction will not affect the legality, validity, or enforceability of any other provision or provisions of this Grant Agreement. It is the intent and agreement of the Parties this Grant Agreement shall be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting another provision that is valid, legal and enforceable and that achieves the same objective. All other provisions of this Grant Agreement will continue in full force and effect.

#### **11.13 SURVIVABILITY**

Expiration or termination of the Grant Agreement for any reason does not release Grantee from any liability or obligation set forth in the Grant Agreement that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of the Grant Agreement, including without limitation the provisions regarding return of grant funds, audit requirements, records retention, public information, warranty, indemnification, confidentiality, and rights and remedies upon termination.

#### **11.14 FORCE MAJEURE**

Neither Grantee nor System Agency shall be liable to the other for any delay in, or failure of performance, of any requirement included in the Grant Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.



### **11.15 NO IMPLIED WAIVER OF PROVISIONS**

The failure of the System Agency to object to or to take affirmative action with respect to any conduct of the Grantee which is in violation or breach of the terms of the Grant Agreement shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

### **11.16 FUNDING DISCLAIMERS AND LABELING**

- A. Grantee shall not use System Agency's name or refer to System Agency directly or indirectly in any media appearance, public service announcement, or disclosure relating to this Grant Agreement including any promotional material without first obtaining written consent from System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Grantee's or a third party's products, services, workshops, trainings, or other commercial offerings on any website portal or internet-based service or software application hosted or managed by Grantee. This does not limit the Grantee's responsibility to comply with obligations related to the Texas Public Information Act or Texas Open Meetings Act.
- B. In general, no publication (including websites, reports, projects, etc.) may convey System Agency's recognition or endorsement of the Grantee's project without prior written approval from System Agency. Publications funded in part or wholly by HHS grant funding must include a statement that "HHS and neither any of its components operate, control, are responsible for, or necessarily endorse, this publication (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)" at HHS's request.

### **11.17 MEDIA RELEASES**

- A. Grantee shall not use System Agency's name, logo, or other likeness in any press release, marketing material or other announcement without System Agency's prior written approval. System Agency does not endorse any vendor, commodity, or service. Grantee is not authorized to make or participate in any media releases or public announcements pertaining to this Grant Agreement or the Services to which they relate without System Agency's prior written consent, and then only in accordance with explicit written instruction from System Agency.
- B. Grantee may publish, at its sole expense, results of Grantee performance under the Grant Agreement with the System Agency's prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.

### **11.18 PROHIBITION ON NON-COMPETE RESTRICTIONS**

Grantee shall not require any employees or Subcontractors to agree to any conditions, such as non-compete clauses or other contractual arrangements, that would limit or restrict such persons or entities from employment or contracting with the State of Texas.

### **11.19 SOVEREIGN IMMUNITY**

Nothing in the Grant Agreement will be construed as a waiver of the System Agency's or the State's sovereign immunity. This Grant Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the

System Agency or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas under the Grant Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. System Agency does not waive any privileges, rights, defenses, or immunities available to System Agency by entering into the Grant Agreement or by its conduct prior to or subsequent to entering into the Grant Agreement.

#### **11.20 ENTIRE CONTRACT AND MODIFICATION**

The Grant Agreement constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any future document incorporated into the Grant Agreement will be harmonized with this Grant Agreement to the extent possible.

#### **11.21 COUNTERPARTS**

This Grant Agreement may be executed in any number of counterparts, each of which will be an original, and all such counterparts will together constitute but one and the same Grant Agreement.

#### **11.22 PROPER AUTHORITY**

Each Party represents and warrants that the person executing this Grant Agreement on its behalf has full power and authority to enter into this Grant Agreement.

#### **11.23 E-VERIFY PROGRAM**

Grantee certifies that it utilizes and will continue to utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

- A. all persons employed to perform duties within Texas during the term of the Grant Agreement; and
- B. all persons, (including subcontractors) assigned by the Grantee to perform work pursuant to the Grant Agreement within the United States of America.

#### **11.24 CIVIL RIGHTS**

- A. Grantee agrees to comply with state and federal anti-discrimination laws, including:
  - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.);
  - ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
  - iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.);
  - iv. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
  - v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
  - vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011 et seq.); and
  - vii. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Grant Agreement.
- B. Grantee agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from

participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.

- C. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
- D. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <https://hhs.texas.gov/about-hhs/your-rights/civil-rights-office/civil-rights-posters>.
- E. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.
- G. Grantee must notify HHSC's Civil Rights Office of any complaints of discrimination received relating to its performance under this Grant Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

HHSC Civil Rights Office  
701 W. 51st Street, Mail Code W206  
Austin, Texas 78751  
Phone Toll Free: (888) 388-6332  
Phone: (512) 438-4313  
Fax: (512) 438-5885  
Email: [HHSCivilRightsOffice@hpsc.state.tx.us](mailto:HHSCivilRightsOffice@hpsc.state.tx.us).

#### **11.25 ENTERPRISE INFORMATION MANAGEMENT STANDARDS**

Grantee shall conform to HHS standards for data management as described by the policies of the HHS Office of Data, Analytics, and Performance. These include, but are not limited to, standards for documentation and communication of data models, metadata, and other data definition methods that are required by HHS for ongoing data governance, strategic portfolio analysis, interoperability planning, and valuation of HHS System data assets.

#### **11.26 DISCLOSURE OF LITIGATION**

- A. The Grantee must disclose in writing to the contract manager assigned to this Grant Agreement any material civil or criminal litigation or indictment either threatened or

pending involving the Grantee. “Threatened litigation” as used herein shall include governmental investigations and civil investigative demands. “Litigation” as used herein shall include administrative enforcement actions brought by governmental agencies. The Grantee must also disclose any material litigation threatened or pending involving Subcontractors, consultants, and/or lobbyists. For purposes of this section, “material” refers, but is not limited, to any action or pending action that a reasonable person knowledgeable in the applicable industry would consider relevant to the Work under the Grant Agreement or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the Work, together with any litigation threatened or pending that may result in a substantial change in the Grantee’s financial condition.

- B. This is a continuing disclosure requirement; any litigation commencing after Grant Agreement Award must be disclosed in a written statement to the assigned contract manager within seven calendar days of its occurrence.

#### **11.27 NO THIRD PARTY BENEFICIARIES**

The Grant Agreement is made solely and specifically among and for the benefit of the Parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the Grant Agreement as a third-party beneficiary or otherwise.

#### **11.28 BINDING EFFECT**

The Grant Agreement shall inure to the benefit of, be binding upon, and be enforceable against each Party and their respective permitted successors, assigns, transferees, and delegates.

## HHS DATA USE AGREEMENT

This Data Use Agreement (“DUA”), effective as of the date the Base Contract into which it is incorporated is signed (“Effective Date”), is entered into by and between a Texas Health and Human Services Enterprise agency (“HHS”), and the Contractor identified in the Base Contract, a political subdivision of the State of Texas (“CONTRACTOR”).

### ARTICLE 1.

#### PURPOSE; APPLICABILITY; ORDER OF PRECEDENCE

The purpose of this DUA is to facilitate creation, receipt, maintenance, use, disclosure or access to Confidential Information with CONTRACTOR, and describe CONTRACTOR’s rights and obligations with respect to the Confidential Information. *45 CFR 164.504(e)(1)-(3)*. This DUA also describes HHS’s remedies in the event of CONTRACTOR’s noncompliance with its obligations under this DUA. This DUA applies to both Business Associates and contractors who are not Business Associates who create, receive, maintain, use, disclose or have access to Confidential Information on behalf of HHS, its programs or clients as described in the Base Contract.

As of the Effective Date of this DUA, if any provision of the Base Contract, including any General Provisions or Uniform Terms and Conditions, conflicts with this DUA, this DUA controls.

### ARTICLE 2.

#### DEFINITIONS

For the purposes of this DUA, capitalized, underlined terms have the meanings set forth in the following: Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (42 U.S.C. §1320d, *et seq.*) and regulations thereunder in 45 CFR Parts 160 and 164, including all amendments, regulations and guidance issued thereafter; The Social Security Act, including Section 1137 (42 U.S.C. §§ 1320b-7), Title XVI of the Act; The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a and regulations and guidance thereunder; Internal Revenue Code, Title 26 of the United States Code and regulations and publications adopted under that code, including IRS Publication 1075; OMB Memorandum 07-18; Texas Business and Commerce Code Ch. 521; Texas Government Code, Ch. 552, and Texas Government Code §2054.1125. In addition, the following terms in this DUA are defined as follows:

“**Authorized Purpose**” means the specific purpose or purposes described in the Statement of Work of the Base Contract for CONTRACTOR to fulfill its obligations under the Base Contract, or any other purpose expressly authorized by HHS in writing in advance.

“**Authorized User**” means a Person:

(1) Who is authorized to create, receive, maintain, have access to, process, view, handle, examine, interpret, or analyze Confidential Information pursuant to this DUA;

(2) For whom CONTRACTOR warrants and represents has a demonstrable need to create, receive, maintain, use, disclose or have access to the Confidential Information; and

(3) Who has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information as required by this DUA.

**“Confidential Information”** means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR, or that CONTRACTOR may, for an Authorized Purpose, create, receive, maintain, use, disclose or have access to, that consists of or includes any or all of the following:

- (1) Client Information;
- (2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information (herein “PHI”);
- (3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;
- (4) Federal Tax Information;
- (5) Individually Identifiable Health Information as related to HIPAA, Texas HIPAA and Personal Identifying Information under the Texas Identity Theft Enforcement and Protection Act;
- (6) Social Security Administration Data, including, without limitation, Medicaid information;
- (7) All privileged work product;
- (8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

**“Legally Authorized Representative”** of the Individual, as defined by Texas law, including as provided in 45 CFR 435.923 (Medicaid); 45 CFR 164.502(g)(1) (HIPAA); Tex. Occ. Code § 151.002(6); Tex. H. & S. Code §166.164; and Estates Code Ch. 752.

### ARTICLE 3.

## CONTRACTOR'S DUTIES REGARDING CONFIDENTIAL INFORMATION

### 3.01 Obligations of CONTRACTOR

CONTRACTOR agrees that:

(A) CONTRACTOR will exercise reasonable care and no less than the same degree of care CONTRACTOR uses to protect its own confidential, proprietary and trade secret information to prevent any portion of the Confidential Information from being used in

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a manner that is not expressly an Authorized Purpose under this DUA or as Required by Law. **45 CFR 164.502(b)(1); 45 CFR 164.514(d)**

(B) Except as Required by Law, CONTRACTOR will not disclose or allow access to any portion of the Confidential Information to any Person or other entity, other than Authorized User's Workforce or Subcontractors (as defined in **45 C.F.R. 160.103**) of CONTRACTOR who have completed training in confidentiality, privacy, security and the importance of promptly reporting any Event or Breach to CONTRACTOR's management, to carry out CONTRACTOR's obligations in connection with the Authorized Purpose.

HHS, at its election, may assist CONTRACTOR in training and education on specific or unique HHS processes, systems and/or requirements. CONTRACTOR will produce evidence of completed training to HHS upon request. **45 C.F.R. 164.308(a)(5)(i); Texas Health & Safety Code §181.101**

All of CONTRACTOR's Authorized Users, Workforce and Subcontractors with access to a state computer system or database will complete a cybersecurity training program certified under Texas Government Code Section 2054.519 by the Texas Department of Information Resources or offered under Texas Government Code Sec. 2054.519(f).

(C) CONTRACTOR will establish, implement and maintain appropriate sanctions against any member of its Workforce or Subcontractor who fails to comply with this DUA, the Base Contract or applicable law. CONTRACTOR will maintain evidence of sanctions and produce it to HHS upon request. **45 C.F.R. 164.308(a)(1)(ii)(C); 164.530(e); 164.410(b); 164.530(b)(1)**

(D) CONTRACTOR will not, except as otherwise permitted by this DUA, disclose or provide access to any Confidential Information on the basis that such act is Required by Law without notifying either HHS or CONTRACTOR's own legal counsel to determine whether CONTRACTOR should object to the disclosure or access and seek appropriate relief. CONTRACTOR will maintain an accounting of all such requests for disclosure and responses and provide such accounting to HHS within 48 hours of HHS' request. **45 CFR 164.504(e)(2)(ii)(A)**

(E) CONTRACTOR will not attempt to re-identify or further identify Confidential Information or De-identified Information, or attempt to contact any Individuals whose records are contained in the Confidential Information, except for an Authorized Purpose, without express written authorization from HHS or as expressly permitted by the Base Contract. **45 CFR 164.502(d)(2)(i) and (ii)** CONTRACTOR will not engage in prohibited marketing or sale of Confidential Information. **45 CFR 164.501, 164.508(a)(3) and (4); Texas Health & Safety Code Ch. 181.002**

(F) CONTRACTOR will not permit, or enter into any agreement with a Subcontractor to, create, receive, maintain, use, disclose, have access to or transmit Confidential Information to carry out CONTRACTOR's obligations in connection with the Authorized Purpose on behalf of CONTRACTOR, unless Subcontractor agrees to comply

with all applicable laws, rules and regulations. **45 CFR 164.502(e)(1)(ii); 164.504(e)(1)(i) and (2).**

(G) CONTRACTOR is directly responsible for compliance with, and enforcement of, all conditions for creation, maintenance, use, disclosure, transmission and Destruction of Confidential Information and the acts or omissions of Subcontractors as may be reasonably necessary to prevent unauthorized use. **45 CFR 164.504(e)(5); 42 CFR 431.300, et seq.**

(H) If CONTRACTOR maintains PHI in a Designated Record Set which is Confidential Information and subject to this Agreement, CONTRACTOR will make PHI available to HHS in a Designated Record Set upon request. CONTRACTOR will provide PHI to an Individual, or Legally Authorized Representative of the Individual who is requesting PHI in compliance with the requirements of the HIPAA Privacy Regulations. CONTRACTOR will release PHI in accordance with the HIPAA Privacy Regulations upon receipt of a valid written authorization. CONTRACTOR will make other Confidential Information in CONTRACTOR's possession available pursuant to the requirements of HIPAA or other applicable law upon a determination of a Breach of Unsecured PHI as defined in HIPAA. CONTRACTOR will maintain an accounting of all such disclosures and provide it to HHS within 48 hours of HHS' request. **45 CFR 164.524 and 164.504(e)(2)(ii)(E).**

(I) If PHI is subject to this Agreement, CONTRACTOR will make PHI as required by HIPAA available to HHS for review subsequent to CONTRACTOR's incorporation of any amendments requested pursuant to HIPAA. **45 CFR 164.504(e)(2)(ii)(E) and (F).**

(J) If PHI is subject to this Agreement, CONTRACTOR will document and make available to HHS the PHI required to provide access, an accounting of disclosures or amendment in compliance with the requirements of the HIPAA Privacy Regulations. **45 CFR 164.504(e)(2)(ii)(G) and 164.528.**

(K) If CONTRACTOR receives a request for access, amendment or accounting of PHI from an individual with a right of access to information subject to this DUA, it will respond to such request in compliance with the HIPAA Privacy Regulations. CONTRACTOR will maintain an accounting of all responses to requests for access to or amendment of PHI and provide it to HHS within 48 hours of HHS' request. **45 CFR 164.504(e)(2).**

(L) CONTRACTOR will provide, and will cause its Subcontractors and agents to provide, to HHS periodic written certifications of compliance with controls and provisions relating to information privacy, security and breach notification, including without limitation information related to data transfers and the handling and disposal of Confidential Information. **45 CFR 164.308; 164.530(c); 1 TAC 202.**

(M) Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may use PHI for the proper management and administration of CONTRACTOR or to carry out CONTRACTOR's



legal responsibilities. Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may disclose PHI for the proper management and administration of CONTRACTOR, or to carry out CONTRACTOR's legal responsibilities, if: **45 CFR 164.504(e)(4)(A)**.

(1) Disclosure is Required by Law, provided that CONTRACTOR complies with Section 3.01(D); or

(2) CONTRACTOR obtains reasonable assurances from the person or entity to which the information is disclosed that the person or entity will:

(a) Maintain the confidentiality of the Confidential Information in accordance with this DUA;

(b) Use or further disclose the information only as Required by Law or for the Authorized Purpose for which it was disclosed to the Person; and

(c) Notify CONTRACTOR in accordance with Section 4.01 of any Event or Breach of Confidential Information of which the Person discovers or should have discovered with the exercise of reasonable diligence. **45 CFR 164.504(e)(4)(ii)(B)**.

(N) Except as otherwise limited by this DUA, CONTRACTOR will, if required by law and requested by HHS, use commercially reasonable efforts to use PHI to provide data aggregation services to HHS, as that term is defined in the HIPAA, 45 C.F.R. §164.501 and permitted by HIPAA. **45 CFR 164.504(e)(2)(i)(B)**

(O) CONTRACTOR will, on the termination or expiration of this DUA or the Base Contract, at its expense, send to HHS or Destroy, at HHS's election and to the extent reasonably feasible and permissible by law, all Confidential Information received from HHS or created or maintained by CONTRACTOR or any of CONTRACTOR's agents or Subcontractors on HHS's behalf if that data contains Confidential Information. CONTRACTOR will certify in writing to HHS that all the Confidential Information that has been created, received, maintained, used by or disclosed to CONTRACTOR, has been Destroyed or sent to HHS, and that CONTRACTOR and its agents and Subcontractors have retained no copies thereof. Notwithstanding the foregoing, HHS acknowledges and agrees that CONTRACTOR is not obligated to send to HHS and/or Destroy any Confidential Information if federal law, state law, the Texas State Library and Archives Commission records retention schedule, and/or a litigation hold notice prohibit such delivery or Destruction. If such delivery or Destruction is not reasonably feasible, or is impermissible by law, CONTRACTOR will immediately notify HHS of the reasons such delivery or Destruction is not feasible, and agree to extend indefinitely the protections of this DUA to the Confidential Information and limit its further uses and disclosures to the purposes that make the return delivery or Destruction of the Confidential Information not feasible for as long as CONTRACTOR maintains such Confidential Information. **45 CFR 164.504(e)(2)(ii)(J)**

(P) CONTRACTOR will create, maintain, use, disclose, transmit or Destroy Confidential Information in a secure fashion that protects against any reasonably anticipated threats or hazards to the security or integrity of such information or unauthorized uses. **45 CFR 164.306; 164.530(c)**

(Q) If CONTRACTOR accesses, transmits, stores, and/or maintains Confidential Information, CONTRACTOR will complete and return to HHS at infosecurity@hhsc.state.tx.us the HHS information security and privacy initial inquiry (SPI) at Attachment 1 . The SPI identifies basic privacy and security controls with which CONTRACTOR must comply to protect HHS Confidential Information. CONTRACTOR will comply with periodic security controls compliance assessment and monitoring by HHS as required by state and federal law, based on the type of Confidential Information CONTRACTOR creates, receives, maintains, uses, discloses or has access to and the Authorized Purpose and level of risk. CONTRACTOR's security controls will be based on the National Institute of Standards and Technology (NIST) Special Publication 800-53. CONTRACTOR will update its security controls assessment whenever there are significant changes in security controls for HHS Confidential Information and will provide the updated document to HHS. HHS also reserves the right to request updates as needed to satisfy state and federal monitoring requirements. **45 CFR 164.306.**

(R) CONTRACTOR will establish, implement and maintain reasonable procedural, administrative, physical and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information, and with respect to PHI, as described in the HIPAA Privacy and Security Regulations, or other applicable laws or regulations relating to Confidential Information, to prevent any unauthorized use or disclosure of Confidential Information as long as CONTRACTOR has such Confidential Information in its actual or constructive possession. **45 CFR 164.308 (administrative safeguards); 164.310 (physical safeguards); 164.312 (technical safeguards); 164.530(c)(privacy safeguards).**

(S) CONTRACTOR will designate and identify, a Person or Persons, as Privacy Official **45 CFR 164.530(a)(1)** and Information Security Official, each of whom is authorized to act on behalf of CONTRACTOR and is responsible for the development and implementation of the privacy and security requirements in this DUA. CONTRACTOR will provide name and current address, phone number and e-mail address for such designated officials to HHS upon execution of this DUA and prior to any change. If such persons fail to develop and implement the requirements of the DUA, CONTRACTOR will replace them upon HHS request. **45 CFR 164.308(a)(2).**

(T) CONTRACTOR represents and warrants that its Authorized Users each have a demonstrated need to know and have access to Confidential Information solely to the minimum extent necessary to accomplish the Authorized Purpose pursuant to this DUA and the Base Contract, and further, that each has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information contained in this DUA. **45 CFR 164.502; 164.514(d).**

(U) CONTRACTOR and its Subcontractors will maintain an updated, complete, accurate and numbered list of Authorized Users, their signatures, titles and the date they agreed to be bound by the terms of this DUA, at all times and supply it to HHS, as directed, upon request.

(V) CONTRACTOR will implement, update as necessary, and document reasonable and appropriate policies and procedures for privacy, security and Breach of Confidential Information and an incident response plan for an Event or Breach, to comply with the privacy, security and breach notice requirements of this DUA prior to conducting work under the Statement of Work. **45 CFR 164.308; 164.316; 164.514(d); 164.530(i)(1).**

(W) CONTRACTOR will produce copies of its information security and privacy policies and procedures and records relating to the use or disclosure of Confidential Information received from, created by, or received, used or disclosed by CONTRACTOR for an Authorized Purpose for HHS's review and approval within 30 days of execution of this DUA and upon request by HHS the following business day or other agreed upon time frame. **45 CFR 164.308; 164.514(d).**

(X) CONTRACTOR will make available to HHS any information HHS requires to fulfill HHS's obligations to provide access to, or copies of, PHI in accordance with HIPAA and other applicable laws and regulations relating to Confidential Information. CONTRACTOR will provide such information in a time and manner reasonably agreed upon or as designated by the Secretary of the U.S. Department of Health and Human Services, or other federal or state law. **45 CFR 164.504(e)(2)(i)(I).**

(Y) CONTRACTOR will only conduct secure transmissions of Confidential Information whether in paper, oral or electronic form, in accordance with applicable rules, regulations and laws. A secure transmission of electronic Confidential Information in motion includes, but is not limited to, Secure File Transfer Protocol (SFTP) or Encryption at an appropriate level. If required by rule, regulation or law, HHS Confidential Information at rest requires Encryption unless there is other adequate administrative, technical, and physical security. All electronic data transfer and communications of Confidential Information will be through secure systems. Proof of system, media or device security and/or Encryption must be produced to HHS no later than 48 hours after HHS's written request in response to a compliance investigation, audit or the Discovery of an Event or Breach. Otherwise, requested production of such proof will be made as agreed upon by the parties. De-identification of HHS Confidential Information is a means of security. With respect to de-identification of PHI, "secure" means de-identified according to HIPAA Privacy standards and regulatory guidance. **45 CFR 164.312; 164.530(d).**

(Z) For each type of Confidential Information CONTRACTOR creates, receives, maintains, uses, discloses, has access to or transmits in the performance of the Statement of Work, CONTRACTOR will comply with the following laws rules and regulations, only to the extent applicable and required by law:

- Title 1, Part 10, Chapter 202, Subchapter B, Texas Administrative Code;

- The Privacy Act of 1974;
- OMB Memorandum 07-16;
- The Federal Information Security Management Act of 2002 (FISMA);
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA) as defined in the DUA;
- Internal Revenue Publication 1075 – Tax Information Security Guidelines for Federal, State and Local Agencies;
- National Institute of Standards and Technology (NIST) Special Publication 800-66 Revision 1 – An Introductory Resource Guide for Implementing the Health Insurance Portability and Accountability Act (HIPAA) Security Rule;
- NIST Special Publications 800-53 and 800-53A – Recommended Security Controls for Federal Information Systems and Organizations, as currently revised;
- NIST Special Publication 800-47 – Security Guide for Interconnecting Information Technology Systems;
- NIST Special Publication 800-88, Guidelines for Media Sanitization;
- NIST Special Publication 800-111, Guide to Storage of Encryption Technologies for End User Devices containing PHI; and

Any other State or Federal law, regulation, or administrative rule relating to the specific HHS program area that CONTRACTOR supports on behalf of HHS.

(AA) Notwithstanding anything to the contrary herein, CONTRACTOR will treat any Personal Identifying Information it creates, receives, maintains, uses, transmits, destroys and/or discloses in accordance with Texas Business and Commerce Code, Chapter 521 and other applicable regulatory standards identified in Section 3.01(Z), and Individually Identifiable Health Information CONTRACTOR creates, receives, maintains, uses, transmits, destroys and/or discloses in accordance with HIPAA and other applicable regulatory standards identified in Section 3.01(Z).

#### **ARTICLE 4.**

#### **BREACH NOTICE, REPORTING AND CORRECTION REQUIREMENTS**

##### **4.01 Breach or Event Notification to HHS. 45 CFR 164.400-414.**

(A) CONTRACTOR will cooperate fully with HHS in investigating, mitigating to the extent practicable and issuing notifications directed by HHS, for any Event or Breach of Confidential Information to the extent and in the manner determined by HHS.

(B) CONTRACTOR'S obligation begins at the Discovery of an Event or Breach and continues as long as related activity continues, until all effects of the Event are mitigated to HHS's reasonable satisfaction (the "incident response period"). **45 CFR 164.404.**

(C) Breach Notice:

(1) Initial Notice.

(a) For federal information, including without limitation, Federal Tax Information, Social Security Administration Data, and Medicaid Client Information, within the first, consecutive clock hour of Discovery, and for all other types of Confidential Information not more than 24 hours after Discovery, or in a timeframe otherwise approved by HHS in writing, initially report to HHS's Privacy and Security Officers via email at: [privacy@HHSC.state.tx.us](mailto:privacy@HHSC.state.tx.us) and to the HHS division responsible for this DUA; and IRS Publication 1075; Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a; OMB Memorandum 07-16 as cited in HHSC-CMS Contracts for information exchange.

(b) Report all information reasonably available to CONTRACTOR about the Event or Breach of the privacy or security of Confidential Information. **45 CFR 164.410.**

(c) Name, and provide contact information to HHS for, CONTRACTOR's single point of contact who will communicate with HHS both on and off business hours during the incident response period.

(2) Formal Notice. No later than two business days after the Initial Notice above, provide formal notification to [privacy@HHSC.state.tx.us](mailto:privacy@HHSC.state.tx.us) and to the HHS division responsible for this DUA, including all reasonably available information about the Event or Breach, and CONTRACTOR's investigation, including without limitation and to the extent available: **For (a) - (m) below: 45 CFR 164.400-414.**

(a) The date the Event or Breach occurred;

(b) The date of CONTRACTOR's and, if applicable, Subcontractor's Discovery;

(c) A brief description of the Event or Breach; including how it occurred and who is responsible (or hypotheses, if not yet determined);

(d) A brief description of CONTRACTOR's investigation and the status of the investigation;

(e) A description of the types and amount of Confidential Information involved;

(f) Identification of and number of all Individuals reasonably believed to be affected, including first and last name of the Individual and if applicable the, Legally Authorized Representative, last known address, age, telephone number, and email address if it is a preferred contact method, to the extent known or can be reasonably determined by CONTRACTOR at that time;

(g) CONTRACTOR's initial risk assessment of the Event or Breach demonstrating whether individual or other notices are required by applicable law or this DUA for HHS approval, including an analysis of whether there is a low probability of compromise of the Confidential Information or whether any legal exceptions to notification apply;

(h) CONTRACTOR's recommendation for HHS's approval as to the steps Individuals and/or CONTRACTOR on behalf of Individuals, should take to protect the Individuals from potential harm, including without limitation CONTRACTOR's provision of notifications, credit protection, claims monitoring, and any specific protections for a Legally Authorized Representative to take on behalf of an Individual with special capacity or circumstances;

(i) The steps CONTRACTOR has taken to mitigate the harm or potential harm caused (including without limitation the provision of sufficient resources to mitigate);

(j) The steps CONTRACTOR has taken, or will take, to prevent or reduce the likelihood of recurrence of a similar Event or Breach;

(k) Identify, describe or estimate the Persons, Workforce, Subcontractor, or Individuals and any law enforcement that may be involved in the Event or Breach;

(l) A reasonable schedule for CONTRACTOR to provide regular updates during normal business hours to the foregoing in the future for response to the Event or Breach, but no less than every three (3) business days or as otherwise directed by HHS, including information about risk estimations, reporting, notification, if any, mitigation, corrective action, root cause analysis and when such activities are expected to be completed; and

(m) Any reasonably available, pertinent information, documents or reports related to an Event or Breach that HHS requests following Discovery.

#### **4.02 Investigation, Response and Mitigation. 45 CFR 164.308, 310 and 312; 164.530**

(A) CONTRACTOR will immediately conduct a full and complete investigation, respond to the Event or Breach, commit necessary and appropriate staff and resources to expeditiously respond, and report as required to and by HHS for incident response purposes and for purposes of HHS's compliance with report and notification requirements, to the reasonable satisfaction of HHS.

(B) CONTRACTOR will complete or participate in a risk assessment as directed by HHS following an Event or Breach, and provide the final assessment, corrective actions and mitigations to HHS for review and approval.

(C) CONTRACTOR will fully cooperate with HHS to respond to inquiries and/or proceedings by state and federal authorities, Persons and/or Individuals about the Event or Breach.

(D) CONTRACTOR will fully cooperate with HHS's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such Event or Breach, or to recover or protect any Confidential Information, including complying with reasonable corrective action or measures, as specified by HHS in a Corrective Action Plan if directed by HHS under the Base Contract.

#### **4.03 Breach Notification to Individuals and Reporting to Authorities. Tex. Bus. & Comm. Code §521.053; 45 CFR 164.404 (Individuals), 164.406 (Media); 164.408 (Authorities)**

(A) HHS may direct CONTRACTOR to provide Breach notification to Individuals, regulators or third-parties, as specified by HHS following a Breach.

(B) CONTRACTOR shall give HHS an opportunity to review and provide feedback to CONTRACTOR and to confirm that CONTRACTOR's notice meets all regulatory requirements regarding the time, manner and content of any notification to Individuals, regulators or third-parties, or any notice required by other state or federal authorities, **including without limitation, notifications required by Texas Business and Commerce Code, Chapter 521.053(b) and HIPAA**. HHS shall have ten (10) business days to provide said feedback to CONTRACTOR. Notice letters will be in CONTRACTOR's name and on CONTRACTOR's letterhead, unless otherwise directed by HHS, and will contain contact information, including the name and title of CONTRACTOR's representative, an email address and a toll-free telephone number, if required by applicable law, rule, or regulation, for the Individual to obtain additional information.

(C) CONTRACTOR will provide HHS with copies of distributed and approved communications.

(D) CONTRACTOR will have the burden of demonstrating to the reasonable satisfaction of HHS that any notification required by HHS was timely made. If there are delays outside of CONTRACTOR's control, CONTRACTOR will provide written documentation of the reasons for the delay.

(E) If HHS delegates notice requirements to CONTRACTOR, HHS shall, in the time and manner reasonably requested by CONTRACTOR, cooperate and assist with CONTRACTOR's information requests in order to make such notifications and reports.

## **ARTICLE 5. STATEMENT OF WORK**

“Statement of Work” means the services and deliverables to be performed or provided by CONTRACTOR, or on behalf of CONTRACTOR by its Subcontractors or agents for HHS that are described in detail in the Base Contract. The Statement of Work, including any future amendments thereto, is incorporated by reference in this DUA as if set out word-for-word herein.

## **ARTICLE 6. GENERAL PROVISIONS**

### **6.01 Oversight of Confidential Information**

CONTRACTOR acknowledges and agrees that HHS is entitled to oversee and monitor CONTRACTOR's access to and creation, receipt, maintenance, use, disclosure of the Confidential Information to confirm that CONTRACTOR is in compliance with this DUA.

### **6.02 HHS Commitment and Obligations**

HHS will not request CONTRACTOR to create, maintain, transmit, use or disclose PHI in any manner that would not be permissible under applicable law if done by HHS.

### **6.03 HHS Right to Inspection**

At any time upon reasonable notice to CONTRACTOR, or if HHS determines that CONTRACTOR has violated this DUA, HHS, directly or through its agent, will have the right to inspect the facilities, systems, books and records of CONTRACTOR to monitor compliance with this DUA. For purposes of this subsection, HHS's agent(s) include, without limitation, the HHS Office of the Inspector General or the Office of the Attorney General of Texas, outside consultants or legal counsel or other designee.

### **6.04 Term; Termination of DUA; Survival**

This DUA will be effective on the date on which CONTRACTOR executes the DUA, and will terminate upon termination of the Base Contract and as set forth herein. If the Base Contract is extended or amended, this DUA shall be extended or amended concurrent with such extension or amendment.



(A) HHS may immediately terminate this DUA and Base Contract upon a material violation of this DUA.

(B) Termination or Expiration of this DUA will not relieve CONTRACTOR of its obligation to return or Destroy the Confidential Information as set forth in this DUA and to continue to safeguard the Confidential Information until such time as determined by HHS.

(C) If HHS determines that CONTRACTOR has violated a material term of this DUA; HHS may in its sole discretion:

(1) Exercise any of its rights including but not limited to reports, access and inspection under this DUA and/or the Base Contract; or

(2) Require CONTRACTOR to submit to a Corrective Action Plan, including a plan for monitoring and plan for reporting, as HHS may determine necessary to maintain compliance with this DUA; or

(3) Provide CONTRACTOR with a reasonable period to cure the violation as determined by HHS; or

(4) Terminate the DUA and Base Contract immediately, and seek relief in a court of competent jurisdiction in Texas.

Before exercising any of these options, HHS will provide written notice to CONTRACTOR describing the violation, the requested corrective action CONTRACTOR may take to cure the alleged violation, and the action HHS intends to take if the alleged violated is not timely cured by CONTRACTOR.

(D) If neither termination nor cure is feasible, HHS shall report the violation to the Secretary of the U.S. Department of Health and Human Services.

(E) The duties of CONTRACTOR or its Subcontractor under this DUA survive the expiration or termination of this DUA until all the Confidential Information is Destroyed or returned to HHS, as required by this DUA.

## **6.05 Governing Law, Venue and Litigation**

(A) The validity, construction and performance of this DUA and the legal relations among the Parties to this DUA will be governed by and construed in accordance with the laws of the State of Texas.

(B) The Parties agree that the courts of Texas, will be the exclusive venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, or in connection with, or by reason of this DUA.

## **6.06 Injunctive Relief**

(A) CONTRACTOR acknowledges and agrees that HHS may suffer irreparable injury if CONTRACTOR or its Subcontractor fails to comply with any of the terms of this DUA with respect to the Confidential Information or a provision of HIPAA or other laws or regulations applicable to Confidential Information.

(B) CONTRACTOR further agrees that monetary damages may be inadequate to compensate HHS for CONTRACTOR's or its Subcontractor's failure to comply. Accordingly, CONTRACTOR agrees that HHS will, in addition to any other remedies available to it at law or in equity, be entitled to seek injunctive relief without posting a bond and without the necessity of demonstrating actual damages, to enforce the terms of this DUA.

### **6.07 Responsibility.**

To the extent permitted by the Texas Constitution, laws and rules, and without waiving any immunities or defenses available to CONTRACTOR as a governmental entity, CONTRACTOR shall be solely responsible for its own acts and omissions and the acts and omissions of its employees, directors, officers, Subcontractors and agents. HHS shall be solely responsible for its own acts and omissions.

### **6.08 Insurance**

(A) As a governmental entity, and in accordance with the limits of the Texas Tort Claims Act, Chapter 101 of the Texas Civil Practice and Remedies Code, CONTRACTOR either maintains commercial insurance or self-insures with policy limits in an amount sufficient to cover CONTRACTOR's liability arising under this DUA. CONTRACTOR will request that HHS be named as an additional insured. HHS reserves the right to consider alternative means for CONTRACTOR to satisfy CONTRACTOR's financial responsibility under this DUA. Nothing herein shall relieve CONTRACTOR of its financial obligations set forth in this DUA if CONTRACTOR fails to maintain insurance.

(B) CONTRACTOR will provide HHS with written proof that required insurance coverage is in effect, at the request of HHS.

### **6.08 Fees and Costs**

Except as otherwise specified in this DUA or the Base Contract, if any legal action or other proceeding is brought for the enforcement of this DUA, or because of an alleged dispute, contract violation, Event, Breach, default, misrepresentation, or injunctive action, in connection with any of the provisions of this DUA, each party will bear their own legal expenses and the other cost incurred in that action or proceeding.

### **6.09 Entirety of the Contract**

This DUA is incorporated by reference into the Base Contract as an amendment thereto and, together with the Base Contract, constitutes the entire agreement between the parties. No change, waiver, or discharge of obligations arising under those documents will be valid unless in writing and executed by the party against whom such change, waiver, or discharge is sought to be

enforced. If any provision of the Base Contract, including any General Provisions or Uniform Terms and Conditions, conflicts with this DUA, this DUA controls.

#### **6.10 Automatic Amendment and Interpretation**

If there is (i) a change in any law, regulation or rule, state or federal, applicable to HIPPA and/or Confidential Information, or (ii) any change in the judicial or administrative interpretation of any such law, regulation or rule,, upon the effective date of such change, this DUA shall be deemed to have been automatically amended, interpreted and read so that the obligations imposed on HHS and/or CONTRACTOR remain in compliance with such changes. Any ambiguity in this DUA will be resolved in favor of a meaning that permits HHS and CONTRACTOR to comply with HIPAA or any other law applicable to Confidential Information.

**ASSURANCES - NON-CONSTRUCTION PROGRAMS**

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL  <input type="text"/>	TITLE  <input type="text"/>
APPLICANT ORGANIZATION  <input type="text"/>	DATE SUBMITTED  <input type="text"/>

### CERTIFICATION REGARDING LOBBYING

#### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

<b>* APPLICANT'S ORGANIZATION</b> <input type="text"/>	
<b>* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE</b>	
Prefix: <input type="text"/>	* First Name: <input type="text"/> Middle Name: <input type="text"/>
* Last Name: <input type="text"/>	Suffix: <input type="text"/>
* Title: <input type="text"/>	
<b>* SIGNATURE:</b> <input type="text"/>	<b>* DATE:</b> <input type="text"/>



## Fiscal Federal Funding Accountability and Transparency Act (FFATA)

The certifications enumerated below represent material facts upon which DSHS relies when reporting information to the federal government required under federal law. If the Department later determines that the Contractor knowingly rendered an erroneous certification, DSHS may pursue all available remedies in accordance with Texas and U.S. law. Signor further agrees that it will provide immediate written notice to DSHS if at any time Signor learns that any of the certifications provided for below were erroneous when submitted or have since become erroneous by reason of changed circumstances. ***If the Signor cannot certify all of the statements contained in this section, Signor must provide written notice to DSHS detailing which of the below statements it cannot certify and why.***

<b>Legal Name of Contractor:</b>	<b>FFATA Contact: (Name, Email and Phone Number):</b>
<b>Primary Address of Contractor:</b>	<b>Zip Code: 9-digits required <a href="http://www.usps.com">www.usps.com</a></b>
<b>Unique Entity ID (UEI): This number replaces the DUNS <a href="http://www.sam.gov">www.sam.gov</a></b>	<b>State of Texas Comptroller Vendor Identification Number (VIN) – 14 digits:</b>

<b>Printed Name of Authorized Representative:</b>	<b>Signature of Authorized Representative</b>
<b>Title of Authorized Representative</b>	<b>Date Signed</b>

# Fiscal Federal Funding Accountability and Transparency Act (FFATA) CERTIFICATION

**As the duly authorized representative (Signor) of the Contractor, I hereby certify that the statements made by me in this certification form are true, complete, and correct to the best of my knowledge.**

Did your organization have a gross income, from all sources, of less than \$300,000 in your previous tax year? Yes  No

If your answer is "Yes", skip questions "A", "B", and "C" and finish the certification. If your answer is "No", answer questions "A" and "B".

---

**A. Certification Regarding % of Annual Gross from Federal Awards.**

Did your organization receive 80% or more of its annual gross revenue from federal awards during the preceding fiscal year? Yes  No

**B. Certification Regarding Amount of Annual Gross from Federal Awards.**

Did your organization receive \$25 million or more in annual gross revenues from federal awards in the preceding fiscal year? Yes  No

If your answer is "Yes" to both question "A" and "B", you must answer question "C".  
If your answer is "No" to either question "A" or "B", skip question "C" and finish the certification.

---

**C. Certification Regarding Public Access to Compensation Information.**

Does the public have access to information about the compensation of the senior executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986? Yes  No

**If your answer is "Yes" to this question, where can this information be accessed?**

**If your answer is "No" to this question, you must provide the names and total compensation of the top five highly compensated officers below.**

**Provide compensation information here:**



## Certificate Of Completion

Envelope Id: 50A48397D75E4DDDAEA2AC7E00389B8F	Status: Sent
Subject: Complete with DocuSign: HHS001310100001 City of Garland Base	
Source Envelope:	
Document Pages: 73	Signatures: 0
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	CMS Internal Routing Mailbox
Time Zone: (UTC-06:00) Central Time (US & Canada)	11493 Sunset Hills Road
	#100
	Reston, VA 20190
	CMS.InternalRouting@dshs.texas.gov
	IP Address: 167.137.1.8

## Record Tracking

Status: Original	Holder: CMS Internal Routing Mailbox	Location: DocuSign
4/10/2023 5:11:58 PM	CMS.InternalRouting@dshs.texas.gov	

## Signer Events

Signature	Timestamp
Mistie Gardner	Sent: 4/10/2023 5:18:23 PM

MGardner@garlandtx.gov

Security Level: Email, Account Authentication  
(None)

### Electronic Record and Signature Disclosure:

Accepted: 4/6/2023 11:09:01 AM  
ID: 262f4f2b-98fb-4342-b07b-6941c6e3723f

Helen Whittington

helen.whittington@dshs.texas.gov

Security Level: Email, Account Authentication  
(None)

### Electronic Record and Signature Disclosure:

Accepted: 4/11/2023 7:37:41 AM  
ID: f989268e-5c56-4fa8-a105-ad0c4ae4e3fd

Patty Melchior

Patty.Melchior@dshs.texas.gov

Security Level: Email, Account Authentication  
(None)

### Electronic Record and Signature Disclosure:

Accepted: 5/5/2022 12:43:08 PM  
ID: f01589da-43a7-481e-996a-7c50409e5d48

Kirk Cole

Kirk.Cole@dshs.texas.gov

Security Level: Email, Account Authentication  
(None)

### Electronic Record and Signature Disclosure:

Accepted: 4/10/2023 12:19:16 PM  
ID: aa928518-65b7-4f7f-afe6-3554bc00712b

## In Person Signer Events

Signature

Timestamp

## Editor Delivery Events

Status

Timestamp

## Agent Delivery Events

Status

Timestamp

## Intermediary Delivery Events

Status

Timestamp

## Certified Delivery Events

Status

Timestamp

Carbon Copy Events	Status	Timestamp
<p>Susan Cannon  scannon@garlandtx.gov  Security Level: Email, Account Authentication (None)  <b>Electronic Record and Signature Disclosure:</b>  Not Offered via DocuSign</p>	<div style="border: 2px solid blue; padding: 5px; display: inline-block;"><b>COPIED</b></div>	<p>Sent: 4/10/2023 5:18:23 PM  Viewed: 4/11/2023 8:15:22 AM</p>
<p>Kristiana Flores  Kristiana.Flores@dshs.texas.gov  Security Level: Email, Account Authentication (None)  <b>Electronic Record and Signature Disclosure:</b>  Not Offered via DocuSign</p>		
<p>Jennifer Boggs  jennifer.boggs@dshs.texas.gov  Security Level: Email, Account Authentication (None)  <b>Electronic Record and Signature Disclosure:</b>  Accepted: 4/3/2023 9:07:13 AM  ID: cc4f44b0-386d-4b06-a5be-737838ea9a44</p>		
<p>CMS Internal Routing Mailbox  cms.internalrouting@dshs.texas.gov  Security Level: Email, Account Authentication (None)  <b>Electronic Record and Signature Disclosure:</b>  Not Offered via DocuSign</p>		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	4/10/2023 5:18:23 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, DSHS Contract Management Section (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact DSHS Contract Management Section:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [alison.joffrion@hhsc.state.tx.us](mailto:alison.joffrion@hhsc.state.tx.us)

### **To advise DSHS Contract Management Section of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [alison.joffrion@hhsc.state.tx.us](mailto:alison.joffrion@hhsc.state.tx.us) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

### **To request paper copies from DSHS Contract Management Section**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [alison.joffrion@hhsc.state.tx.us](mailto:alison.joffrion@hhsc.state.tx.us) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

### **To withdraw your consent with DSHS Contract Management Section**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to [alison.joffrion@hhsc.state.tx.us](mailto:alison.joffrion@hhsc.state.tx.us) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify DSHS Contract Management Section as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by DSHS Contract Management Section during the course of your relationship with DSHS Contract Management Section.

**Exhibit C**



# GARLAND

TEXAS MADE HERE

## FACILITY USE AGREEMENT

This **Facility Use Agreement** ("License") is made and entered between the City of Garland, Texas, a Texas home-rule municipality ("Licensor" or "City"), and Dallas County, by and through its Dallas County Health and Human Services Department ("Licensee" or "User," collectively with Licensor as "Parties," or each individually a "Party"), subject to the Terms and Conditions ("Terms") for the times and dates indicated therein, which is attached hereto as Exhibit "A" and incorporated herein by reference. In the event of a conflict between this License and the Terms, the Terms shall control.

**WHEREAS**, Licensor is a Texas home-rule municipality that owns the real property located at 206 and 232 Carver Street in Garland, Dallas County, Texas (the "Property"); and

**WHEREAS**, Licensee is a political subdivision of the State of Texas with a health and human services department known as the Dallas County Health and Human Services Department ("DCHHS"); and

**WHEREAS**, Licensor is the owner of the buildings on the Property which are currently being used to provide clinic and office space ("Current Use") with suitable space for Licensee to provide health services to the residents of the City of Garland; and

**WHEREAS**, Licensor desires to allow Licensee to provide health services to the residents of the City of Garland using Licensor's buildings on the Property;

**WHEREAS**, Licensor and Licensee have entered into that certain City/County Interlocal Agreement for Public Health Services, effective \_\_\_\_\_ (the "ILA"), for the provision of health services to the residents of Garland;

**WHEREAS**, the ILA contemplates that the Parties will enter into a Facility Use Agreement so that Licensee may provide the health services at a location provided by Licensor; and

**WHEREAS**, Licensor and Licensee are authorized to enter into this License pursuant to Chapter 791 of the Texas Government Code;

**NOW, THEREFORE**, in consideration of the commitments and covenants contained herein and for good and valuable consideration, the receipt, adequacy, and sufficiency of which is hereby acknowledged by the Parties hereto, the Parties hereby agree as follows:

1. **Agreement to License**. Subject to the terms and conditions of this License, Licensor hereby licenses and grants access to User, and User hereby takes the Facilities generally located at 206 and 232 Carver Street, Garland, Dallas County, Texas, and being more particularly described in the Terms ("Facilities").

2. **Term**. User shall be permitted to use the Facilities for the times indicated in the Terms for the purposes stated therein.

3. **Allowed Use**. The Facilities licensed is to be used by User for the purposes stated within the Terms, and for no other uses or purposes whatsoever ("Allowed Use"). User shall not use or permit the use of the Facilities, or any part thereof, for any purpose other than as stipulated in the Terms without the express written consent of Licensor.

4. **User Fee; Deposit**. User shall pay Licensor a non-refundable license fee in the amount indicated within the Terms.

5. **As Is Condition**. User, by entry of the Facilities under this License, accepts the Facilities "**AS IS - WHERE IS, WITH ALL FAULTS**" in the present state of repair. User has been given the opportunity to perform such inspections, investigations, studies, and tests as User has deemed appropriate and User has satisfied itself, without any representation or warranty on the part of Licensor or anyone acting on Licensor's behalf, that the Facilities are fit and satisfactory in all respects for User's purposes.

**LICENSEE ACKNOWLEDGES THAT LICENSOR EXPRESSLY DISCLAIMS AND LICENSEE EXPRESSLY WAIVES, ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY,**



USEABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE FACILITIES, AND LICENSEE FURTHER ACKNOWLEDGES THAT LICENSOR HAS NOT MADE ANY OTHER REPRESENTATIONS TO LICENSEE AS TO WHETHER OR NOT THE FACILITIES ARE FIT AND SATISFACTORY FOR THE USE INTENDED BY LICENSEE. LICENSOR DISCLAIMS RESPONSIBILITY AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION RELATING TO THE FACILITIES, WHETHER PROVIDED BY LICENSOR OR OTHERWISE. WITHOUT LIMITING THE FOREGOING, LICENSOR MAKES NO REPRESENTATIONS OF ANY NATURE REGARDING THE FACILITIES AND SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, EXPRESS OR IMPLIED, PAST, PRESENT, OR FUTURE, CONCERNING: (I) THE NATURE AND CONDITION OF THE FACILITIES, INCLUDING WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, AND THE SUITABILITY THEREOF AND THE FACILITIES FOR ANY AND ALL ACTIVITIES AND USES WHICH LICENSEE MAY ELECT TO CONDUCT THEREON, AND THE EXISTENCE OF ANY ENVIRONMENTAL SUBSTANCES, HAZARDS OR CONDITIONS OR PRESENCE OF ANY ENDANGERED OR PROTECTED SPECIES THEREON OR COMPLIANCE WITH ALL APPLICABLE LAWS, RULES OR REGULATIONS; (II) THE NATURE AND EXTENT OF ANY RIGHT-OF-WAY, LEASE, POSSESSION, LIEN, ENCUMBRANCE, LICENSE, RESERVATION, CONDITION OR OTHERWISE; (III) THE COMPLIANCE OF THE LAND OR ITS OPERATION WITH ANY LAW, ORDINANCE OR REGULATION OF ANY FEDERAL, STATE, OR LOCAL GOVERNMENTAL AUTHORITY; AND (IV) WHETHER OR NOT THE PROPERTY CAN BE DEVELOPED OR UTILIZED FOR ANY PURPOSE. FOR PURPOSES HEREOF, "ENVIRONMENTAL SUBSTANCES" MEANS THE FOLLOWING: (A) ANY "HAZARDOUS SUBSTANCE" UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, 42 U.S.C.A. SECTION 9601 ET.SEQ., AS AMENDED, (B) ANY "HAZARDOUS SUBSTANCE" UNDER THE TEXAS HAZARDOUS SUBSTANCES SPILL PREVENTION AND CONTROL ACT, TEX. WATER CODE, SECTION 26.261, ET. SEQ., AS AMENDED, (C) PETROLEUM OR PETROLEUM-BASED PRODUCTS (OR ANY DERIVATIVE OR HAZARDOUS CONSTITUENTS THEREOF OR ADDITIVES THERETO), INCLUDING WITHOUT LIMITATION, FUEL AND LUBRICATION OILS, (D) ANY "HAZARDOUS CHEMICALS" OR "TOXIC CHEMICALS" UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT, 29 U.S.C.A. SECTION 651 ET. SEQ., AS AMENDED, (E) ANY "HAZARDOUS WASTE" UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT, 42 U.S.C.A. SECTION 6901 ET. SEQ., AS AMENDED, (F) ASBESTOS, (G) POLYCHLORINATED BIPHENYLS, (H) UNDERGROUND STORAGE TANKS AND WELLS, WHETHER EMPTY, ABANDONED, CAPPED, UNCAPPED, FILLED, OR PARTIALLY FILLED WITH ANY SUBSTANCE, (I) ANY SUBSTANCE, THE PRESENCE OF WHICH IS PROHIBITED BY FEDERAL, STATE OR LOCAL LAWS AND REGULATIONS, AND (J) ANY OTHER SUBSTANCE WHICH BY FEDERAL, STATE OR LOCAL LAWS AND

REGULATIONS REQUIRES SPECIAL HANDLING OR NOTIFICATION OF GOVERNMENTAL AUTHORITIES IN ITS COLLECTION, STORAGE, TREATMENT OR DISPOSAL. REFERENCES TO PARTICULAR ACTS OR CODIFICATIONS IN THIS DEFINITION INCLUDE ALL PAST AND FUTURE AMENDMENTS THERETO, AS WELL AS APPLICABLE RULES AND REGULATIONS AS NOW OR HEREAFTER PROMULGATED THEREUNDER.

TO THE FULLEST EXTENT OF THE LAW, LICENSEE WAIVES AND DISCLAIMS ANY CAUSE OF ACTION THAT LICENSEE MAY NOW OR HEREAFTER HAVE OR OBTAIN AGAINST LICENSOR, ITS AGENTS, EMPLOYEES OR SERVANTS ARISING FROM THE USE OR OCCUPATION OF THE FACILITIES OR THE EXISTENCE OF THIS LICENSE.

TO THE FULLEST EXTENT OF THE LAW, LICENSOR IS SOLELY RESPONSIBLE FOR ANY ACTION ARISING FROM THE EXTERIOR PREMISES OF THE FACILITIES, INCLUDING STEPS, SIDEWALKS, LAWNS, DRIVEWAYS, PARKING LOTS OR ANY EXTERIOR FEATURE.

6. **No Waste, Defacement, or Contamination.** User shall commit no waste of the Facilities and shall be responsible for any damages to the Facilities, including but not limited to fixtures, personal property, and improvements, caused by the activities of User. User shall, upon vacating the Facilities, surrender the Facilities clean, free of debris, trash, and in substantially the same condition as received, excepting any facility improvements made by Licensee to the Facilities pursuant to Section 4.0 of the Terms. User shall not discharge any waste or hazardous materials on the Facilities. User shall not injure, mar, or in any way deface the Facilities and shall not cause, permit, or suffer anything to be done whereby the Facilities shall be in any manner injured, marred, or defaced. User shall only make alterations to the Facilities in accordance with Section 4.0 of the Terms. User agrees to return any furniture, equipment, or personal property to the location in which User found it upon taking possession of the Facilities.

7. **Compliance with Laws.** User shall comply with all federal, state, and local laws that are applicable to the use of the Facilities. There shall be no smoking or gambling on the Facilities.

8. **Utilities.** Unless otherwise stated within the Terms, User shall be responsible for any utilities used in connection with the Allowed Use on the Facilities.

9. **Assignment or Sublicense.** User shall not assign this License or sublicense the Facilities, or any part thereof, without the prior written consent of the Licensor, which may be denied for any reason or no reason at all.

10. **Termination.**

**A. For Convenience.** This License may be terminated without cause by either Party sixty (60) days after written notification is given to the other Party of the intent to terminate the License.

**B. For Cause.** Any breach, default, or failure by User to perform any of the duties or obligations assumed by User hereunder shall be cause for termination of this License by City in the manner set forth in this section. City shall deliver to User prior written notice of its intention to so terminate this License, including a reasonable description of the breach, default, or failure. If such breach or default is not cured within thirty (30) days of the notice being received as provided in the Terms, City shall have the right, without further notice to User and without being deemed guilty of trespass and without any liability whatsoever on the part of City, to declare this License terminated and enter upon and take full possession of the Facilities, by force or otherwise, and without legal process, to expel, oust, and remove any and all parties who may occupy any part of the Facilities and any and all fixtures and equipment not belonging to City that may be found within or upon the Facilities without being liable for damages. If termination occurs, the Parties agree herein that all medical records and/or other confidential information will be, without delay, returned to User and City will always protect the confidentiality of the information.

**c. Vacation of Property on Termination.** In the event of termination of this License by City in accordance with the provisions of this Section 10, all rights, powers, and privileges of User hereunder shall cease and terminate, and User shall have sixty (60) days from the date of termination to vacate the Facilities, provided User makes no claims of any kind whatsoever against City, its officers, agents, servants, employees, or representatives by reason of such termination or any act incident thereto. Any failure by City to so terminate this License for any period after such breach, default, or failure by User shall

not be determined to be a waiver by City of any right to terminate this License for any subsequent breach, default, or failure.

11. **Severability.** If any term or provision of this License is held to be illegal, invalid, or unenforceable, the legality, validity, or enforceability of the remaining terms or provisions of this License shall not be affected thereby, and in lieu of each such illegal, invalid, or unenforceable term or provision, there shall be added automatically to this License a legal, valid, or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid, or unenforceable.

12. **Waiver.** Either Licensor or User shall have the right to waive any requirement contained in this License which is intended for the waiving Party's benefit but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the Party for whose benefit such requirement is intended.

13. **Governing Law.** This License and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this License are performable in Dallas County, Texas such that exclusive venue for any action arising out of this License shall be in Dallas County, Texas.

14. **Paragraph Headings; Construction.** The paragraph headings contained in this License are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both Parties have participated in the negotiation and preparation of this License and this License shall not be construed either more or less strongly against or for either Party.

15. **Complete Agreement.** This License, including the attached Terms, contains the entire agreement between Licensor and User with respect to the Facilities and, except as set forth herein and in written instruments executed in connection herewith, including but not limited to the ILA, neither Licensor nor User has made any agreements, covenants, warranties or representations of any kind or character, express or implied, oral or written, with respect to the Facilities including, without

limitation, any warranties of habitability, merchantability, workmanship, income to be derived from the Facilities, expenses to be incurred in connection with the Facilities, or with respect to any other conditions, facts, or requirements relating or pertaining to the Facilities.

16. **Binding Effect.** Except as limited herein, the terms and provisions of this License shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, devisees, personal and legal representatives, successors, and assigns.

17. **Gender.** Within this License, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

18. **Counterparts.** This License has been executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

19. **Exhibits.** All exhibits to this License are incorporated herein by reference for all purposes wherever reference is made to the same.

20. **No Waiver of Immunity or Defense.** No Party, by execution of this Agreement, waives nor shall be deemed to have waived, any immunity or defense that would otherwise be available to it including, without limitation, immunity from liability and suit for damages to one another or to any third-party except as otherwise provided by law.

21. **Relationship of Parties.** Nothing contained in this License shall be deemed or construed by the Parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the Parties, it being expressly understood and agreed that no provision contained in this License nor any act or acts of the Parties hereto shall be deemed to create any relationship between the Parties other than the relationship of Licensor and User as those terms are understood herein.

22. **Non-Discrimination.** User promises and warrants that no person shall on the grounds of race, color, national

origin, or sex, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 be excluded from participation in, be denied access or benefits of, or be otherwise subjected to discrimination under any program, activity, or transaction on the Facilities.

23. **Right to Enter.** In permitting the use of the Facilities, Licensor does not relinquish its rights to access and enter the Facilities and does hereby expressly retain the right to enforce any and all laws and applicable rules and regulations. The Licensor's agents, officers, and employees (including law enforcement) may enter upon and into the Facilities at all times to make inspections to ensure compliance with this License.

24. **Signature Authority.** Both Parties represent, warrant, and agree that they have the full right and authority to enter into this License, and that the person executing this License on behalf of the respective Party has the full right and authority to enter into this License and bind the Party to each and every obligation contained herein. User understands and acknowledges that Licensor cannot be lawfully held responsible for any obligation contained herein and the express terms and conditions of this License cannot be amended by the Terms or otherwise, without the express authorization of the City Manager of the City of Garland and executed by the City Manager, or his express designee, of the City of Garland.

**EXECUTED** as of the \_\_\_ day of \_\_\_\_\_, 20\_\_.

**LICENSOR:**

**USER:**

**CITY OF GARLAND, TEXAS**

**DALLAS COUNTY**

\_\_\_\_\_  
By: \_\_\_\_\_

\_\_\_\_\_  
By: Clay Lewis Jenkins

Title: \_\_\_\_\_

Title: Dallas County Judge

**Address :**

City of Garland  
200 N. Fifth Street  
P. O. Box 469002  
Garland, Texas 75046-9002  
Attn: \_\_\_\_\_

**Address :**

Dallas County  
500 Elm Street  
Dallas, Texas 75202

**APPROVED AS TO FORM\* :**

**JOHN CREUZOT  
DALLAS COUNTY DISTRICT ATTORNEY**

TREY LANSFORD

**BARBARA NICHOLAS  
CHIEF, CIVIL DIVISION**

BY: **Joshua  
Humphreys** \_\_\_\_\_  


Joshua Humphreys  
Assistant District Attorney

\*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

Exhibit A





**GARLAND**  
TEXAS MADE HERE

**EXHIBIT "A"**  
**TERMS AND CONDITIONS – FACILITY USE AGREEMENT**

This License is administered by the City of Garland Strategic Initiatives Department ("Department"), and is made and entered into between the **City of Garland, Texas** ("LICENSOR") AND **Dallas County, Texas** ("LICENSEE").

**1.0 Agreement Period; Location; License Fee; Deposit:**

- 1.1 TERM: Facility use by LICENSEE shall generally begin on \_\_\_\_\_ and end on \_\_\_\_\_ ("Term"). LICENSEE may use the Premises at all times throughout the Term of this License.
- 1.2 FACILITY: The Facility is located at the following address 206 and 232 Carver Street, Garland, Dallas County, Texas, and is more particularly described as follows: FACILITY: The Facility includes the buildings located at the following addresses: 206 and 232 Carver Street, Garland, Dallas County, Texas ("Facility"). The term "Facility" does not include the exterior premises including sidewalks, lawns, driveways, or parking lot. Throughout the term of this agreement, licensor shall maintain the exterior premises in a manner that complies with all applicable laws and regulations.
- 1.3 LICENSE FEE: LICENSOR reserves the right to charge LICENSEE a non-refundable license fee of \$ 1.00 per year for the Term to cover expenses related to LICENSEE'S use of the Premises.
- 1.4 THIS SECTION IS INTENTIONALLY OMITTED.

**2.0 Allowed Use:**

- 2.1 LICENSEE is granted permission to conduct the following activities on the Premises during the Term of this Agreement ("Use"): for the public purpose of Licensee operating a clinic to providing health services and programs to the residents of Garland at or above current use levels. The clinic shall be open to the public a minimum of four (4) days of the week, with days of week and hours determined by DCHHS to best meet the needs of the public and the requirements set out in the City/County Interlocal Agreement for Public Health Services, effective \_\_\_\_\_ (the "ILA"). The Premises shall be used solely for providing health services, support services, and education programs.
- 2.2 MISCELLANEOUS OR SPECIFIC ALLOWED USE PROVISIONS:  
With prior written consent from the Licensor's City Manager, such consent within the sole discretion of Licensor, Licensee may further use the Premises for other services which provide a public benefit. Licensee acknowledges and agrees that it shall be solely responsible for maintaining the confidentiality and security of all Personal Health Information ("PHI") in accordance with the Health Insurance Portability and Accountability Act ("HIPPA") and other applicable laws and regulations.

**3.0 Facility Condition:**

- 3.1 LICENSEE is responsible to keep all facilities operated by LICENSEE in good condition and make any repairs or improvements it deems necessary for the continued occupancy of the Premises, including the correction, prevention, and abatement of nuisances in or upon the Premises. Any damage to the Facilities or equipment during LICENSEE'S approved facility use period must be repaired in a timely manner. Failure to maintain or repair damages to LICENSEE operated facilities shall be grounds for prohibition of any activity by LICENSEE on the Premises until the repair is made to LICENSOR'S satisfaction. If LICENSEE does not make repairs in time frame set by LICENSOR, repairs will be made by LICENSOR and the LICENSEE shall be charged all expenses for the repairs.
- 3.2 STORAGE: LICENSEE will store maintenance equipment and supplies in LICENSOR approved storage areas. Personal property, materials, or equipment must be stored in a clean and organized manner. Only items related to the Allowed Use may be stored on the Premises. LICENSOR reserves

the right to remove and dispose of improperly stored maintenance equipment or materials. Only locks and keys issued by LICENSOR may be used to secure storage facilities.

- 3.3 Access to LICENSEE owned facilities on the Premises shall be granted to City of Garland employees, agents, and officers in the exercise of government functions.
- 3.4 LICENSOR shall provide cleaning services for the Premises at the same level the City provides other City buildings. Any additional cleaning services are the responsibility of LICENSEE.

**4.0 Facility Improvements by Licensee:**

- 4.1 LICENSEE shall submit a written request, with design drawings, to LICENSOR for LICENSEE to perform facility improvements to City-owned property. Upon confirmation that LICENSEE's request meets all applicable City codes and regulations and upon a determination, in its sole discretion, as to whether the proposed improvements are beneficial to the City, LICENSOR may issue written authorization for work to proceed. LICENSEE may not begin work on any facility improvements without prior written consent of LICENSOR to proceed.
- 4.2 Any unauthorized structures, building installations or additions on City owned property shall be removed by LICENSEE at LICENSEE'S sole cost and expense.

**5.0 Criminal Background Checks.** LICENSEE shall conduct criminal background checks on any person who will be working at the Premises on behalf of LICENSEE. It shall be the sole responsibility of the LICENSEE to conduct all criminal background checks.

**6.0 Relationship of Parties:** Nothing contained herein shall be deemed or construed by the Parties hereto or by any third party to create the relationship of principal and agent or partnership nor of venture, it is being expressly understood and agreed that no provision contained herein nor any act or acts of the Parties hereto shall be deemed to create any relationship between the Parties other than the relationship between the City of Garland as a governmental entity, and its citizens, in a regulatory matter governing the use of facilities and the conduct of activities related thereto. The LICENSEE shall not represent to any person, by any means, that it acts for or on behalf of the City, unless expressly so authorized in writing by the City.

**7.0 Independent Contractor:**

- 7.1 While engaged in carrying out and complying with the terms and conditions of this Agreement, the LICENSEE is, and shall be, an Independent Contractor and shall not, with respect to its acts or omissions, be deemed an officer, employee, or agent of the City. The LICENSEE shall not at any time or in any manner represent that it or any of its agents or employees are in any manner agents or employees of the City.
- 7.2 LICENSEE is and shall be an Independent Contractor, with full, complete, and exclusive power and authority to direct, supervise, and control its own employees and agents and to determine the method of the performance of the activities covered hereby. The fact that the City's representative shall have the right to observe LICENSEE'S work during his performance and to carry out the other prerogatives which are expressly reserved to and vested in the City's representative hereunder, is not intended to and shall not at any time change or affect the status of the LICENSEE as an Independent Contractor with respect to either the City's representative or to the LICENSEE'S own employees or agents or to any other person, firm or corporation.

**8.0 Insurance:** Throughout the Term of this License, LICENSEE shall contractually require any contractor, subcontractor, or independent contractor use in connection with LICENEE's work and/or provision of services ("Contractor") to maintain, at no cost to LICENSOR, insurance policies with companies licensed to do business in the State of Texas with a Best's Credit Rating of no less that "A-/VI" and which shall include commercial general liability, worker's compensation, and professional liability coverage. Unless modified in accordance with any ordinance or directive, the minimum limits for these coverages shall be \$1,000,000.00 per occurrence/\$2,000,000 aggregate for general liability, Texas statutory limits for workers' compensation, and \$1,000,000 per occurrence for professional liability. Insurance obtained by Contractor shall be primary and noncontributory, and name LICENSOR as a certificate holder. Insurance obtained by Contractor shall also provide a waiver of subrogation in favor of LICENSOR on the general liability and workers compensation policies, and list LICENSOR as an additional insured under the general liability policy. A provision shall be incorporated in the policies whereby LICENSOR shall be given at least thirty (30) days'

prior written notice of cancellation or of any material change in coverage of such policies, and Contractor shall provide Owner with a copy of any notice of cancellation or material change in coverage within three (3) business days of its receipt of such a notice. For purposes of this section, a material change in coverage includes, but is not limited to, a reduction in coverage below the amounts required under this License. Prior to the commencement of any work by Contractor, LICENSEE shall confirm Contractor's compliance with this provision. Upon demand of LICENSOR, LICENSEE shall furnish LICENSOR with certificates evidencing insurance required to be obtained by Contractor. This Article creates no right of recovery of an insurer against Owner.

- 9.0 Notice:** Any notice required or desired to be given from one Party to the other Party to this License shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such Party at the address hereinafter specified; or (iii) delivered to such Party by courier receipted delivery. Either Party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other Party, the last address of such Party designated for notice shall remain such Party's address for notice.

**ADDRESS FOR NOTICES**

To LICENSOR:

City of Garland  
Attn: City Manager 200 N. Fifth Street  
Garland, Texas 75040

City of Garland  
Attn: Mandy Phippen Director of Health  
1720 Commerce Street  
Garland, Texas 75040

With a copy to:  
City of Garland  
Attn: City Attorney 200 N. Fifth Street  
Garland, Texas 75040

To LICENSEE:  
Clay Lewis Jenkins Dallas County Judge Dallas County  
500 Elm Street, Suite 7-G07 Dallas, Texas 75202

Attn: Phillip Huang, M.D. Director/Health Authority  
Dallas County Health and Human Services 2377 N. Stemmons Fwy #604  
Dallas, Texas 75207

With a copy to:  
Dallas County District Attorney's Office Attn: Barbara Nicholas  
Chief, Civil Division  
500 Elm Street, Suite 6300  
Dallas, Texas 75202

**10.0 Miscellaneous Provisions:**

**10.1 Fiscal Funding Clause.** Notwithstanding any provisions contained herein, the obligations of the LICENSEE under this License are expressly contingent upon the availability of funding for each item and obligation contained herein for the term of the License and any extensions thereto. LICENSOR shall have no right of action against the LICENSEE in the event the LICENSEE is unable to fulfill its obligations under this License because of lack of sufficient

funding for any item or obligation from any source utilized to fund this License or failure to budget or authorize funding for this License during the current or future fiscal years. If the LICENSEE is unable to fulfill its obligations under this License because of lack of sufficient funding, or if funds become unavailable, the LICENSEE, at its sole discretion, may provide funds from a separate source or may terminate this License by written notice to LICENSOR at the earliest possible time prior to the end of its fiscal year.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CITY/COUNTY INTERLOCAL AGREEMENT FOR PUBLIC HEALTH SERVICES WITH DALLAS COUNTY FOR THE PROVISION OF PUBLIC HEALTH SERVICES ON BEHALF OF THE CITY, WITHIN THE CITY OF GARLAND, DALLAS COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** the Interlocal Cooperation Act, Government Code Chapter 791, authorizes any local government to contract with one or more local governments to perform governmental functions and services;

**WHEREAS,** Texas Health and Safety Code Section 121.031 authorizes the Commissioners Court of a county to establish a local health department;

**WHEREAS,** the City of Garland recognizes the need to ensure the continued provision of essential public health services to its residents in a cost-effective and efficient manner;

**WHEREAS,** the Dallas County Health and Human Services (DCHHS) department has been established by the Commissioners Court as the local health department to perform all public health functions within the Dallas County area;

**WHEREAS,** the City and County desire to enter into an agreement, in accordance with the Interlocal Cooperation Act and the Local Public Health Reorganization Act, Texas Health and Safety Code Chapter 121, for the County to provide public health services on behalf of the City;

**WHEREAS,** the County has agreed to assume the City's public health services detailed in the Interlocal Agreement in accordance with the terms and conditions set forth therein;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:**

**Section 1**

That the City Manager is hereby authorized to execute a City/County Interlocal Agreement for Public Health Services with Dallas County for the provision of public health services, in accordance with the Interlocal Cooperation Act and the Local Public Health Reorganization Act, Texas

Health and Safety Code Chapter 121, which is attached hereto as Exhibit "A" and incorporated herein by reference.

**Section 2**

That this Resolution shall be and become effective immediately upon and after its adoption and approval.

**PASSED AND APPROVED** this the \_\_\_th day of June, 2024.

**CITY OF GARLAND, TEXAS**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Secretary



**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Regular Session**

**8.**

**Meeting Date:** 06/18/2024

**Title:** Consider the Appointment of a Mayor Pro Tem and Deputy Mayor Pro Tem

**Submitted By:** Courtney Vanover, Department Coordinator II

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**Issue/Summary**

Council is requested to consider the election of a Mayor Pro Tem and if so desired a Deputy Mayor Pro-Tem.

**Background**

**Consideration / Recommendation**

Council discussion

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**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Regular Session**

**9.**

**Meeting Date:** 06/18/2024

**Title:** Boards and Commission Appointment

**Submitted By:** Courtney Vanover, Department Coordinator II

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**Issue/Summary**

**Mayor Scott LeMay**

- Angela Harrison - Senior Citizens Advisory Board

**Background**

**Consideration / Recommendation**

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**Attachments**

Angela Harrison

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# Application for City of Garland Boards and Commissions

First Name: ANNIE (ANGELA) Last Name: HARRISON

Address: 2903 Canis Circle Apt./Suite:

City: Garland State: TX Zip Code: 75044

Phone (preferred): Phone (alt):

Dallas County Voter Registration Number (or Date of Birth):

Have you ever been convicted of a Class A Misdemeanor or a Felony (Yes or No)? No

Length of Garland residency (in years)? 10+ years Length of Garland residency (in years)? 10+ years

Email address:

Do you use, or have you ever used, any of the following: Facebook, LinkedIn, Nextdoor

Facebook Twitter Instagram LinkedIn Nextdoor TikTok

Please list up to three Boards and Commission in order of interest (see complete list on pages 3-4):

1st Senior Citizens Advisory Committee 2nd Choice: 3rd Choice:

Please list any experience that qualifies you to serve in the areas you have indicated.

I care about the welfare of seniors and I'm HIGHLY invested in improving the quality of their lives. I will be 70 years in age this year so how the City of Garland responds to the needs of its senior adults will impact me. I specialize in senior fitness so I get to work with senior adults and have some insight into what matters to them. My goal has always been to serve and make a positive difference in the lives of men and women who are 55 years and above in age. There is always someone willing to sacrifice for those who are younger in age, but not so much for those who are older.

If you have previously served on a City Board or Commission, please specify and list dates of service.

No previous service on a City Board or Commission.

List civic or community projects with which you have been involved.

Active member of the Garland Senior Activity Center since 2016. Volunteer Fitness Instructor for the Garland Senior Activity Center since 2018. I provide free hourly fitness training classes: Monday, Wednesday, and Friday at the Gale Fields Recreation Center. My target audience: men and women 55 years and older. The youngest student in the class is 59 years and the oldest is 87 years. Since 2015, I have served as a volunteer Cardio Leader for Walking North Dallas. I lead 5+ mile walks three time a week from 15 to 40 people. Served a year as a volunteer Elderly Payee for the Senior Source of Dallas.

What is your educational background?

Studied System Analyst at University of Texas at Arlington and Dallas Baptist University. Worked for Texas Instruments for 23 years from 1990 to 2014 in its Facilities IT department and retired from TI as a Software Development Manager and a Security IT Analyst. Retired from the U.S. Army after 25 years. Served as a Adjutant General Officer and retired at the rank of Captain in 1999.

Referred by: Carol Cooper District: 7



# Disclosure Form

## For Ordinance Boards and Commission Applicants

First Name: ANNIE (ANGELA) Last Name: HARRISON

Title:

Spouse:

Minor Children or Dependents:

1. Identify by name and address each business entity in which you, your spouse or any of your minor children or dependents have a substantial interest.

**Business entity:** Means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust or any other entity recognized by law.

**Substantial interest means:** (a) the ownership of 10 percent or more of the voting stock or shares of the business entity; (b) the ownership of either 10 percent or more or \$5,000 or more of the fair market value of the business entity; or (c) funds received from the business entity exceed 10 percent of the recipient's gross income for the previous year.

Have no substantial interest in any business entities.

2. Identify (by street address, legal or lot and block description) all real property located within Garland owned by you through beneficial ownership, partnership, joint ownership or through corporate ownership of corporation in which you have an interest of one percent or more. You must also include all real property leased by you or held by you with a right of first refusal.

2903 Canis Circle, Garland, TX 75044

Return completed Boards and Commissions Application and Disclosure Form to:

City of Garland  
City Secretary's Office  
PO Box 469002  
Garland, TX 75046-9002

Signature:

Date: 05/31/24 1:42 PM



**GARLAND**  
**CITY COUNCIL STAFF REPORT**

**City Council Regular Session**

**10.**

**Meeting Date:** 06/18/2024

**Title:** Boards and Commission Appointment

**Submitted By:** Courtney Vanover, Department Coordinator II

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**Issue/Summary**

**Council Member Margaret Lucht**

- Jaric Jones - Plan Commission

**Background**

**Consideration / Recommendation**

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**Attachments**

Jaric Jones - Plan Commission

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# Application for City of Garland Boards and Commissions

First Name:  Last Name:

Address:  Apt./Suite:

City:  State:  Zip Code:

Phone (preferred):  Phone (alt):

Dallas County Voter Registration Number (or Date of Birth):

Have you ever been convicted of a Class A Misdemeanor or a Felony (Yes or No)?

Length of Garland residency (in years)?  Length of Garland residency (in years)?

Email address:

Do you use, or have you ever used, any of the following:

Facebook  Twitter  Instagram  LinkedIn  Nextdoor  TikTok

Please list up to three Boards and Commission in order of interest (see complete list on pages 3-4):

1<sup>st</sup>  2<sup>nd</sup> Choice:  3<sup>rd</sup> Choice:

Please list any experience that qualifies you to serve in the areas you have indicated.

If you have previously served on a City Board or Commission, please specify and list dates of service.

List civic or community projects with which you have been involved.

What is your educational background?

Referred by:  District:



# Disclosure Form

## For Ordinance Boards and Commission Applicants

First Name:  Last Name: Jones

Title:

Spouse:

Minor Children or Dependents:

1. Identify by name and address each business entity in which you, your spouse or any of your minor children or dependents have a substantial interest.

**Business entity:** Means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust or any other entity recognized by law.

**Substantial interest means:** (a) the ownership of 10 percent or more of the voting stock or shares of the business entity; (b) the ownership of either 10 percent or more or \$5,000 or more of the fair market value of the business entity; or (c) funds received from the business entity exceed 10 percent of the recipient's gross income for the previous year.

2. Identify (by street address, legal or lot and block description) all real property located within Garland owned by you through beneficial ownership, partnership, joint ownership or through corporate ownership of corporation in which you have an interest of one percent or more. You must also include all real property leased by you or held by you with a right of first refusal.

Return completed Boards and Commissions Application and Disclosure Form to:

City of Garland  
City Secretary's Office  
PO Box 469002  
Garland, TX 75046-9002

Signature:

Date: