

**AMENDED AND RESTATED PERFORMANCE CONTRACT  
HEALTH AND HUMAN SERVICES COMMISSION  
CONTRACT NO. HHS00062680001**

This Amended and Restated Performance Contract (the “Contract”) is between the Health and Human Services Commission (“HHSC”) and MHMR Authority of Brazos Valley (“Local Government,” or "LIDDA"), each a “Party” and collectively the "Parties.”

Whereas, the Parties entered into a Performance Contract effective September 1, 2019 (the “Original Performance Contract”). The Original Performance Contract was entered into in accordance with the provisions of the “Interlocal Cooperation Act,” Chapter 791 of the Texas Government Code, and Chapters 533A and 534 of the Texas Health and Safety Code;

Whereas, the Parties amended the Original Performance Contract, effective March 3, 2020 (the “First Amendment”); and

Whereas, the Parties further amended the Performance Contract, effective March 12, 2020, (the “Second Amendment”); and

Whereas, the Parties want to amend and restate the Original Performance Contract in its entirety, together with all Amendments.

The Parties therefore agree as follows:

**I. PARTIES**

**HHSC**

Health and Human Services Commission  
Address: 701 W.51<sup>st</sup> Street  
City and Zip: Austin, 78751  
Contact Person: Mariana Hernandez  
Telephone: 512.438.5042  
Fax number: 512.438.2180  
E-Mail Address: mariana.hernandez@hhsc.state.tx.us  
Agency Number: 529

**Local Government**

MHMR Authority of Brazos Valley  
Address: P.O. Box 4588  
City and Zip: Bryan, 77805  
Contact Person: Bill Kelly  
Telephone: 979.361.9840  
Fax number:  
E-Mail Address: bkelly@mhmrbv.org  
Agency Number:  
Component Code: 250

**II. STATEMENT OF SERVICES TO BE PROVIDED**

The Parties agree to cooperate to provide necessary and authorized services and resources in accordance with the terms of this Contract. Specific services provided are described in the Attachments to this Contract.

### **III. CONTRACT PERIOD, EXTENSION, AND AMENDMENT EFFECTIVE DATE**

- 3.1 **Contract Term.** The Contract term is September 1, 2019, through August 31, 2021, unless extended or terminated earlier pursuant to the terms and conditions of the Contract.
- 3.2 **Extension.** The Parties may extend this Contract subject to mutually agreeable terms and conditions.
- 3.3 **Amendment Effective Date.** This Amended and Restated Performance Contract is effective on September 1, 2020.

### **IV. AMENDMENT**

The Parties to this Contract may modify this contract only through the execution of a written amendment signed by both parties. Amendments will be signed by the HHSC delegated signature authority and the LIDDA's Executive Director, unless written notice otherwise is provided pursuant to Section 5.15 of Attachment D (Special Terms and Conditions).

### **V. CONTRACT AMOUNT AND PAYMENT FOR SERVICES**

- 5.1 **Fiscal Year 2020 Contract Amount.** The total amount of HHSC's share of this Contract for fiscal year 2020 shall not exceed \$1,318,996.08. LIDDA's share of this Contract for fiscal year 2020, the local match, is \$67,533.78. The total value of this Contract for fiscal year 2020 shall not exceed \$1,386,529.86.
- 5.2 **Fiscal Year 2021 Contract Amount.** The total amount of HHSC's share of this Contract for fiscal year 2021 shall not exceed \$1,297,366.33. LIDDA's share of this Contract for fiscal year 2021, the local match, is \$67,876.80. The total value of this Contract for fiscal year 2021 shall not exceed \$1,365,243.13.
- 5.3 **Total Contract Value.** The total value of this Contract for Fiscal Years 2020 and 2021 shall not exceed \$2,751,772.99. Specific information related to each Party's share of the contract value are identified in Attachment B-Budget/Required Local Match.

### **VI. LEGAL NOTICES**

Legal Notices under this Contract shall be deemed delivered when deposited either in the United States mail, postage paid, certified, return receipt requested; or with a common carrier, overnight, signature required, to the appropriate address below:

**HHSC**

Health and Human Services Commission  
4405 N. Lamar Blvd. Mail Code 1100  
Austin, TX 78751  
Attention: Office of the Chief Counsel

**Local Government**

MHMR Authority of Brazos Valley  
P.O. Box 4588  
Bryan, Texas 77805  
Attention: Bill Kelly

Notice given in any other manner shall be deemed effective only if and when received by the Party to be notified. Either Party may change its address for receiving legal notice by notifying the other Party in writing.

**VII. CERTIFICATIONS**

The undersigned contracting parties certify that:


- (1) the services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of state government;
- (2) each Party executing this Contract on its behalf has full power and authority to enter into this Contract;
- (3) the proposed arrangements serve the interest of efficient and economical administration of state government; and
- (4) the services contracted for are not required by Section 21, Article XVI of the Constitution of Texas to be supplied under a contract awarded to the lowest responsible bidder.

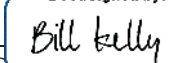
**SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE FOR HHSC CONTRACT NO. HHS000626800001**

**HEALTH AND HUMAN SERVICES COMMISSION**

**LOCAL GOVERNMENT**

DocuSigned by:  
  
CD39FD232D2A415...

DocuSigned by:  
  
413A7FE58582474...

Sonja Gaines  
Printed Name

Bill Kelly  
Printed Name

Assoc. Commissioner IDD/BH  
Title

Executive Director  
Title

August 10, 2020  
Date of Signature

August 5, 2020  
Date of Signature

**THE FOLLOWING ATTACHMENTS ARE HEREBY INCORPORATED INTO THE AMENDED AND RESTATED CONTRACT BY REFERENCE:**

- ATTACHMENT A-1: **Statement of Work**
- ATTACHMENT A-2: **Performance Measures and Outcome Targets**
- ATTACHMENT A-3: **Description of Intellectual and Developmental Disability Services**
- ATTACHMENT A-4: **PASSR Requirements and Enhanced Community Coordination**
- ATTACHMENT A-5: **HCS and TxHmL Interest Lists Maintenance**
- ATTACHMENT A-6: **Medicaid Program Enrollment Requirements**
- ATTACHMENT A-7: **Options for IDD Services and Supports**
- ATTACHMENT A-8: **IDD Submission Calendar**
- ATTACHMENT A-9: **Guidelines for Determining and Changing Designated LIDDA**
- ATTACHMENT A-10: **Guidelines for Determining Less Restrictive Setting**
- ATTACHMENT A-11: **Community First Choice: Assessments, Service Planning and Service Coordination**
- ATTACHMENT A-12: **Medicaid Estate Recovery Program**
- ATTACHMENT A-13: **Permanency Planning Requirements**
- ATTACHMENT A-14: **Voter Registration**
- ATTACHMENT A-15: **Crisis Respite**
- ATTACHMENT A-16: **Crisis Intervention Specialist**
- ATTACHMENT B: **Budget/ Required Local Match**
- ATTACHMENT C: **Uniform Terms and Conditions, Local Government, Version 3.2**
- ATTACHMENT D: **Local Intellectual and Developmental Disability Authority (LIDDA) Special Conditions**

ATTACHMENT E: **Data Use Agreement, Version 8.5, August 12, 2019, Community Center Version, (LMHA, LA, LIDDA)**

ATTACHMENT F: **FEDERAL Assurances and Certifications:**

**Attachment F-1: Federal Assurances Non-Construction Programs**

**Attachment F-2: Federal Lobbying Certification**

ATTACHMENT G: **Fiscal Federal Funding Accountability and Transparency Act (FFATA) Certification**

ATTACHMENT H-4: **Community Living Information Process (CLOIP) Special Terms and Conditions**

FORM A: **Affidavit of Board Member**

FORM B: **Affidavit of Executive Director**

## ATTACHMENT A-1 STATEMENT OF WORK

### ARTICLE 1-DESIGNATION AND DELEGATION OF AUTHORITY

- 1.1 **Designation.** In accordance with Tex. Health and Safety Code §§533A.035(a) and 534.105, local intellectual and developmental disability authority (“**LIDDA**”) is the designated local intellectual and developmental disability authority for the local service area (“**LSA**”) consisting of the following counties: Brazos, Burleson, Grimes, Leon, Madison, Robertson and Washington.
- 1.2 **Delegation.** In accordance with Tex. Health and Safety Code §533A.035(a), Health and Human Services Commission (“**HHSC**”) hereby delegates to LIDDA the authority and responsibility for planning, policy development, coordination, including coordination with criminal justice entities, resource allocation, and resource development for, and oversight, of intellectual and developmental disability (“**IDD**”) services in the most appropriate and available setting to meet individual needs in the LSA.

### ARTICLE 2-LIDDA REQUIREMENTS

#### 2. Authority Functions

2.1 **Local Planning.** LIDDA shall conduct local planning in the LSA as follows:

- 2.1.1 LIDDA shall develop and implement a local plan that is consistent with the strategic priorities referenced in the HHSC Strategic Plan at <https://hhs.texas.gov/health-and-human-services-strategic-plan-2015-2019>; and in accordance Tex. Health and Safety Code §533A.0352.
- 2.1.2 LIDDA shall post the current local plan on the LIDDA’s Internet website or the website of one of the LIDDA’s local sponsoring agencies.
- 2.1.3 Through its local board, the LIDDA shall appoint, charge, and support one or more Planning and Network Advisory Committees (“**PNACs**”). The role of the PNAC is to represent the perspectives of individuals, family members and other stakeholders on the provision of services and supports. The PNAC ensures that stakeholders’ input plays a significant role in the local planning and networking process as well as in policy making and service delivery design. It acts as a liaison between the local board and community by advocating for community needs and becoming a catalyst for a broader scope of participation. The PNAC must be composed of at least nine members, fifty percent of whom shall be Individuals or family members of Individuals, including family members of children or adolescents, or another composition approved by HHSC. LIDDA shall fill any vacancy on the PNAC within three months of the creation of the vacancy or within the timeframe required by the LIDDA’s bylaws.

2.1.4 PNAC members must be objective and avoid even the appearance of conflicts of interest in performing the responsibilities of the committee.

2.1.5 LIDDA shall establish outcomes and reporting requirements for each PNAC in accordance with relevant portions of the *Guidelines for Local Service Area Planning*.

2.1.6 LIDDA shall ensure all PNAC members receive initial and ongoing training and information necessary to achieve expected outcomes in accordance with relevant portions of the *Guidelines for Local Service Area Planning*.

2.1.7 LIDDA may develop alliances with other LIDDAs to form regional PNACs.

2.1.8 LIDDA may develop a combined IDD and mental health PNAC. If the LIDDA develops such a PNAC, the fifty percent individual and family member representation must consist of equal numbers of mental health and IDD individuals and family members.

## 2.2 Policy Development

2.2.1 LIDDA shall develop and implement policies to address the needs of the LSA in accordance with state and federal laws. The policies shall include consideration of public input, best value, and individual care issues.

## 2.3 Coordination

2.3.1 LIDDA shall ensure coordination of services within the LSA. Such coordination must ensure collaboration with other agencies, criminal justice entities, other child-serving agencies (e.g., Texas Education Agency (“TEA”), Department of Family and Protective Services (“DFPS”), Independent School Districts (“ISDs”), family advocacy organizations, local businesses, and community organizations. LIDDA shall, in accordance with applicable rules, ensure that services are coordinated:

- A. Among network providers; and
- B. Between network providers and other persons necessary to establish and maintain continuity of service.

2.3.2 LIDDA shall provide individuals a choice among all eligible network providers.

2.3.3 LIDDA shall participate in the Community Resource Coordination Group for Children and Adolescents (“CRCG”) and the Community Resource Coordination Group for Adults (“CRCGA”) in the LSA, in accordance with the memorandum of understanding, described in the CRCG - MOU, required by the Tex. Gov't Code §531.055 (regarding *Memorandum of Understanding on Services for Persons Needing Multiagency Services*), by providing one or more representatives to each group with authority and expertise in IDD services.

2.3.4 LIDDA shall notify the CRCG in the county of residence of the parent or guardian of a person younger than 22 years of age with a developmental disability if such a person will be placed by the LIDDA in a group home or other residential facility, as required by Tex. Gov't Code 531.154(a)(3).

2.3.5 LIDDA shall cooperate with TEA in individual transition planning for child and adult individuals receiving special education services including **ISDs**, in accordance with 34 CFR §300.320(b), Definition of individualized education program, §300.321(b), IEP Team.

2.3.6 LIDDA shall coordinate with all entities in the continuity of services as it pertains to Texas Law Enforcement Telecommunications System (“**TLETS**”) in accordance with the LIDDA handbook.

## 2.4 **Resource Development**

2.4.1 LIDDA shall identify and create opportunities to make additional resources available to the LSA which will ultimately benefit individuals (e.g., applying for grants and partnering with other organizations).

2.4.2 LIDDA shall optimize earned revenues and maintain a Claims Management System.

## 2.5 **Resource Allocation**

2.5.1 LIDDA shall maintain an administrative and fiscal structure that separates LIDDA and provider functions, including ensuring service coordinators do not perform provider functions.

2.5.2 LIDDA shall ensure best value in the distribution of resources through the provider network and implement utilization management activities to ensure efficient use of resources.

## 2.6 **Oversight of IDD Services**



2.6.1 LIDDA shall ensure the provision of IDD services by assembling and managing a network that offers individual choice to the extent possible and ensure that providers are selected based on their qualifications and representation of best value.

2.6.2 LIDDA shall subcontract in accordance with applicable laws and HHSC rules governing contract management for LIDDAs (40 Tex. Admin. Code Chapter 2, Subchapter B).

2.6.3 LIDDA shall objectively monitor and evaluate service delivery and provider performance.

2.6.4 LIDDA shall require contracted medical service providers to meet the same professional qualifications as medical service providers employed by the LIDDA.

2.6.5 LIDDA shall consider public input, ultimate cost benefit, and care issues to ensure individual choice and the best use of public money in assembling a network of services providers and in making recommendations relating to the most appropriate and available treatment alternatives for individuals.

2.6.6 LIDDA shall respond appropriately to provider complaints and appeals.

2.6.7 LIDDA shall comply with the following requirements relating to the LIDDA's quality management program:

A. Develop, update as necessary, and implement a Quality Management Plan that describes the LIDDA's quality management program, including the LIDDA's methods for:

- (1) Involving stakeholders in the quality management program;
- (2) Measuring, assessing, and improving the LIDDA's authority functions;
- (3) Measuring, assessing, and improving the services provided by or through the LIDDA;
- (4) Measuring, analyzing, and improving service capacity and access to services;
- (5) Measuring, assessing, and reducing critical incidents and incidents of individual abuse, neglect and exploitation and improving the individual rights protection process;
- (6) Assessing and improving the process for reviewing rights restrictions; and
- (7) Measuring, assessing, and improving the accuracy of data reported by the LIDDA.

B. Make the current Quality Management Plan available to HHSC staff and to the public upon request.

C. For a deficiency identified by HHSC related to critical health, safety, rights, or abuse and neglect, LIDDA shall immediately correct the deficiency and within

five business days after receipt of a request from HHSC, develop a corrective action plan (“CAP”) that adequately addresses the correction of the deficiency that includes a description of local oversight activities to monitor and maintain the correction of the identified problem, and submit, in accordance with the IDD Submission Calendar, to HHSC for approval.

D. Within 30 calendar days after receipt of a request from HHSC, develop a CAP that adequately addresses the correction of a deficiency other than one related to critical health, safety, rights, or abuse and neglect that was identified by HHSC during oversight activities and that includes a description of local oversight activities to monitor and maintain the improvement of the identified problem, and submit, in accordance with the IDD Submission Calendar, to HHSC for approval.

## 2.7 Other LIDDA Functions

2.7.1 In addition to other LIDDA functions described in sections 2.1-2.1.8 of this Attachment, the following are also authority functions:

- A. LIDDA shall provide screening, eligibility determination, and service coordination as described in the LIDDA handbook.
- B. LIDDA shall maintain the LIDDA's Home and Community-based (“HCS”)/ Texas Home Living (“TxHmL”) Interest List as described in the LIDDA handbook.
- C. LIDDA shall be responsible for enrollments in Medicaid programs as described in the LIDDA handbook, Medicaid Program Enrollment Requirements and the Medicaid Estate Recovery Program attachments to this Contract
- D. LIDDA shall conduct intake activities and provide an explanation of IDD services and supports as described in the Options for IDD Services and Supports and the LIDDA handbook.
- E. LIDDA shall have policies and procedures for maintaining a local interest list for general revenue services available to individual within 30 days of the request date.
- F. LIDDA shall provide their local general revenue interest list in a format and method approved by HHSC on a quarterly basis as indicated in the IDD Submission Calendar.
- G. LIDDA shall provide permanency planning, as described in the Permanency Planning Requirements to this Contract and the LIDDA handbook.

H. LIDDA shall ensure the provision of crisis respite in the LIDDA's local service area accordance with the requirements stated in the Crisis Respite of this Contract.

I. LIDDA shall assign one full-time employee or contract employee as a lead crisis intervention specialist to oversee all activities required by the Crisis Intervention Specialist of this Contract and the LIDDA handbook.

2.7.2 LIDDA shall supervise and ensure the provision of IDD services identified in the Description of IDD Services to the following individuals located within the LSA:

**A. LIDDA Priority Population**

- (1) In accordance with the definition of "LIDDA priority population" found in 40 Tex. Admin. Code, Chapter 5, Subchapter D, § 5.5153(17) (Diagnostic Assessment), LIDDA priority population is a group comprised of persons who meet one or more of the following descriptions:
  - (a) A person with an intellectual disability, as defined by Tex. Health and Safety Code §591.003(15-a);
  - (b) A person with autism spectrum disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders;
  - (c) A person with a related condition, who is eligible for, and enrolling in services in the ICF/IID Program, HCS Program, or TxHmL Program
  - (d) A nursing facility resident who is eligible for specialized services for intellectual disability or a related condition pursuant to Section 1919(e)(7) of the Social Security Act;
  - (e) A child who is eligible for Early Childhood Intervention services through the HHSC; and
  - (f) A person diagnosed by an authorized provider as having a pervasive developmental disorder through a diagnostic assessment completed before November 15, 2015.
- (2) The determination of eligibility for the priority population must be made through the use of assessments and evaluations performed by qualified professionals. Individuals who are members of the priority population are eligible to receive IDD services identified in the Description of IDD Services and the Service Definition Manual, as appropriate for the individual's level of need, eligibility for a particular service, and the availability of that service.
- (3) Since resources are insufficient to meet the service needs of every individual in the priority population, services should be provided to meet the most intense needs first. Intense needs are determined as follows:

- (a) an individual is in danger or at risk of losing his or her support system, especially the living arrangement or supports needed to maintain self;
- (b) an individual is at risk of abuse or neglect;
- (c) an individual's basic health and safety needs not being met through current supports;
- (d) an individual is at risk for functional loss without intervention or preventive or maintenance services; or
- (e) an individual demonstrates repeated criminal behavior.

(4) **Miscellaneous**

LIDDA may serve individuals who have resided in a state supported living center on a regular admission status, but who may not be in the priority population.

**2.8 General Program**

- 2.8.1 LIDDA shall provide services to all individuals without regard to the individual's criminal history.
- 2.8.2 LIDDA shall provide individual benefits assistance in accordance with section 2.8.2(A) through 2.8.2(I) of this Attachment A-1 and comply with Tex. Health and Safety Code §533A.008(e) regarding individual benefits training.
  - A. LIDDA shall ensure at least one staff member receives training that is provided semi-annually through the Texas Council's Individual Benefits Organization;
  - B. LIDDA shall identify a staff member designated by LIDDA to serve as a liaison to Health and Human Services Disability Determination Services;
  - C. LIDDA shall annually screen all current individuals to determine their potential eligibility for Supplemental Security Income ("SSI"), Social Security Disability Income ("SSDI"), and Medicaid;
  - D. LIDDA shall screen all new individuals found eligible for services to determine their potential eligibility for SSI, SSDI, and Medicaid;
  - E. LIDDA shall ensure a staff member who has received the training required in section 2.8.2(A) of the Contract reviews all cases screened as having low eligibility potential to determine the screening's accuracy;
  - F. LIDDA shall ensure all cases reviewed and determined to have moderate to high eligibility potential for Medicaid, SSDI and SSI will be assisted with the benefits applications;
  - G. LIDDA shall assist all individuals who have been denied SSI or SSDI benefits to appeal their denial of benefits, from the initial appeal (Reconsideration) level to the second level (Administrative Hearing).

- H. LIDDA shall ensure the LIDDA's billing staff are notified of individuals' benefits approval and application dates, to allow completion of retroactive billing within 90 days for allowable Medicaid services from the date of the application. The Social Security Administration ("SSA") will contact the individual's designated representative; and
  - I. LIDDA shall identify staffing that is adequate to ensure sufficient focus and capacity to provide benefits assistance in accordance with the requirements in sections 2.8.2(A) through 2.8.2(H) of this Attachment. Referral to contractors paid on contingency fees for benefits assistance does not meet the requirements of section 2.8.2 of this Attachment.
- 2.8.3 LIDDA shall ensure all service coordinators are trained in job duties as outlined in this Performance Contract and have access to and use of a complete copy of this Performance Contract and the LIDDA handbook. HHSC will post the Contract on the Agency website.
- 2.8.4 LIDDA, as requested by HHSC, shall assist in transferring an individual's Intermediate Care Facility for Individuals with an Intellectual Disability or Related Condition ("ICF/IID") Program, Home and Community-based Services Program ("HCS") or Texas Home Living ("TxHmL") Program services, or financial management services agency services from one provider to another due to closure of the provider's facility or termination of the provider's contract.
- 2.8.5 LIDDA shall provide meaningful access to its programs, services, and activities and ensure adequate communication through language assistance services for individuals and legally authorized representatives ("LARs") with limited English proficiency, sensory impairments, and/or speech impairments.
- 2.8.6 LIDDA shall cooperate with other LIDDAs, Area Agencies on Aging ("AAAs"), and HHSC local community services regional offices to ensure efficient access and intake processes for all HHSC services and programs.
- 2.8.7 LIDDA shall cooperate with Managed Care Organizations ("MCOs") to ensure efficient access and intake and programmatic processes for all HHSC services and programs and Community First Choice ("CFC") services.
- 2.8.8 This Contract references CARE ("Client Assignment and Registration"). Certain functions of CARE may transition to new data management systems during the contract period stated in section III of the Signature Document (Contract Period and Renewal). The impacted functions and the effective date of the transition will be communicated to the LIDDA at a later date. Such communication will include a crosswalk identifying the data management system to the applicable contract provision. The provisions of the crosswalk (relating to which data management system applies) shall take precedence over those identified in this Contract.

2.8.9 LIDDA shall establish a public phone number for each county in the LSA to access IDD services and ensure the phone number remains dedicated for that purpose and is not reassigned. LIDDA may have the same phone number for more than one county. The phone number(s) for the county or counties must be submitted on Form S (Contact List). Form S may be obtained upon request from the HHSC IDD Performance Units Contracts Section.

## 2.9 **IDD Services**

2.9.1 LIDDA shall meet the quarterly IDD Community Service Target as identified in the Performance Measures and Outcome Targets.

2.9.2 LIDDA shall meet the quarterly performance measures and outcome targets as identified in the Performance Measures and Outcome Targets.

2.9.3 LIDDA shall obtain written approval from HHSC prior to using contract funds to:

- A. Develop a new residential program location; or
- B. Provide residential services to an individual.

2.9.4 LIDDA shall comply with the following Medicaid-related items:

- A. Contract with HHSC to participate in Targeted Case Management (“TCM”) (i.e., service coordination for Medicaid recipients and Preadmission Screening and Residential Review (“PASRR”)) and contract with HHSC to participate in Administrative Claiming.
- B. Limit its participation as a waiver program provider to the capacity indicated in the CARE Screen C70, except that HHSC may grant a temporary increase in the enrollment capacity in accordance with the LIDDA handbook.
- C. Perform the enrollment for the waiver programs in accordance with the Medicaid Program Enrollment Requirements and HHSC rules governing the HCS Program and the TxHmL Program.
- D. Review each individual enrolling in the HCS Program to determine if the individual is eligible for inclusion in the Money Follows the Person (“MFP”) Demonstration Project as described in the LIDDA handbook.
- E. Perform Medicaid Estate Recovery Program (“MERP”) responsibilities in accordance with MERP requirements.
- F. Enter into an agreement with managed care organizations (“MCOs”) in their local service areas related to eligibility determinations, assessments, and service

coordination for certain individuals participating in Community First Choice (“CFC”).

- G. Refrain from contracting with an MCO as a provider of CFC services for which the LIDDA fulfills the service coordination and assessment role.
- H. Assist a resident of a state supported living center (“SSLC”) with completing a move from the SSLC within 180 days after the interdisciplinary team (“IDT”) refers the resident for community placement (as indicated on the CARE XPTR report HC023200).
- I. Provide services to individuals referred by the Texas Youth Commission, in accordance with 37 Tex. Admin. Code Chapter 380, Subchapter B, Division 2, Programming for Youth with Specialized Treatment Needs, §380.8779, (relating to Discharge of Non-Sentenced Offenders with Mental Illness or Intellectual Disability).
- J. Ensure that all required services identified in the Description of IDD Services are provided each quarter.
- K. Submit all required service encounters per the *IDD Service Grid* Instructions, *HHSC Service Grid* and *Field Definitions*, and submit supplemental assignment data in CARE as necessary to ensure accuracy of individual's service record.
- L. Review annually with each individual currently receiving General Revenue services or the individual's LAR the Explanation of *IDD Services and Supports* referenced in the Options for IDD Services and Supports.
- M. Ensure *LIDDA* staff monitoring an individual who is on community placement status from an SSLC complies with the applicable requirements of §2.278 of 40 Tex. Admin. Code, Chapter 2, Subchapter F (Continuity of Services—State [IDD] Facilities).
  - (1) LIDDA must submit the first written report required by §2.278 of 40 Tex. Admin. Code to the SSLC within the first 90 days after the individual has moved from the SSLC and submit subsequent reports at least every 90 days thereafter for the duration the LIDDA is responsible for monitoring the individual in accordance with §2.278.
- N. Access the long-term services and supports (“LTSS”) screening portal on a routine basis, acknowledge receipt of a referral within 14 calendar days after the referral was transmitted to the LIDDA, and follow up on the referral in accordance with the LIDDA's established processes.



## 2.10 ADMINISTRATIVE

2.10.1 LIDDA shall designate a medical specialist who is a:

- A. registered nurse;
- B. advance practice nurse;
- C. physician's assistant; or
- D. medical doctor.

2.10.2 LIDDA shall require the designated medical specialist to coordinate training, technical assistance, and support, as needed, to residential and other providers who serve individuals with IDD with complex medical needs who have been diverted or transitioned from institutions to services in the community.

2.10.3 LIDDA shall develop internal procedures for:

- A. processing requests when individuals or their LARs or actively involved family members indicate a preference for a service or support on the Identification of Preferences form (Form 8648); and
- B. ensuring documentation of the individual's preferences of a service or support exists to substantiate their preference and the date the preference was indicated.

2.10.4 LIDDA shall maintain access to the following HHSC databases:

- A. Community Services Interest List ("CSIL");
- B. Client Assignment and Registration System ("CARE");
- C. Texas Medicaid & Healthcare Partnership ("TMHP");
- D. Intellectual and Development Disabilities and Behavioral Health Outpatient Warehouse ("MBOW");
- E. Secure File Transfer Protocol ("SFTP");
- F. Service Authorization System Online ("SASO");
- G. IDD Operations Portal; and
- H. Any other applicable databases or applications.

2.10.5 Designate and report all LIDDA contacts listed on the Form S. Update the Form S within five working days of any change.

2.10.6 LIDDA shall have an emergency plan that addresses specific types of emergencies and disasters that pertain to the area of the state in which the LIDDA is located, including natural disasters, fire, equipment failure, a pandemic, and terrorism. LIDDA's plan must include:



- A. a complete list of program sites (which include program sites of contract providers) in which the LIDDA is providing services funded by general revenue services;
- B. a process for a designated LIDDA staff to contact HHSC in a timely manner with details of an emergency, actions taken, and any future plans (e.g., a plan to evacuate individuals to another location);
- C. methods to physically protect or recover individuals' records;
- D. a training program for all staff on emergency situations (within 30 days of employment and annually) and a requirement for quarterly drills and post-drill evaluation;
- E. a process for post-emergency evaluation of emergency plan's effectiveness, including incorporating improvement activities;
- F. a process by which the LIDDA can produce a complete list of individuals receiving services at each program site, the names and phone numbers of their emergency contacts, the level of assistance needed by individuals, any special needs of individuals (e.g., types of medication), and individuals' durable medical equipment or assistive devices;
- G. LIDDA staff who have access to a list of:
  - (1) Names of all direct service LIDDA staff with their home addresses and personal telephone numbers; and
  - (2) one contact number for each contractor;
- H. the process to update staff and individual information (e.g., departing staff and individuals are deleted from the list, new staff and their roles and responsibilities are added to the list, new individuals are added to the list, changing needs of an individual);
- I. an emergency plan for each program site that addresses relevant emergencies appropriate to the program site's services, individuals, and geographic location. A program site emergency plan must:
  - (1) clearly identify the roles and responsibilities of specific staff during each type of emergency addressed in the plan;
  - (2) include a process for a program site staff to contact the LIDDA administrative office in a timely manner with details of an emergency, actions taken, and any future plans (e.g., a plan to evacuate individuals to another location); and
  - (3) include an evacuation plan for each type of emergency addressed by the plan, which ensures reliable and available transportation, an appropriate destination, that staff are knowledgeable about individuals' needs, and allows for individuals to have access to their assistive devices; and
- J. an exemption for the requirement in section 2.10.6 (I) for a program site that is accredited/certified/licensed through a certifying body provided the LIDDA has evidence that the program site has an emergency plan that has been reviewed and approved by the certifying body. LIDDA must provide HHSC with such evidence upon request by the HHSC Contract Manager.

2.10.7 LIDDA must ensure staff members at program sites are knowledgeable of the emergency plans and that staff and individuals follow the plans during drills and real emergencies.

## ATTACHMENT A-4

### PASRR REQUIREMENTS AND ENHANCED COMMUNITY COORDINATION

#### ARTICLE 1- PREADMISSION SCREENING AND RESIDENT REVIEW (“PASRR”)

1.1 **PASRR.** LIDDA must Comply with all PASRR requirements set forth in the LIDDA’s Medicaid Provider Agreement for the Provision of PASRR and 26 Tex. Admin. Code Chapter 303.

#### 1.2 **Nursing Facility Diversion**

1.2.1 LIDDA must designate a staff member as the Diversion Coordinator who:

- A. is at least credentialed as a qualified intellectual disability professional (“**QIDP**”); and
- B. has two years' experience in coordinating or providing services to individuals with intellectual and developmental disability (“**IDD**”), including those with complex medical needs, in the community.

1.2.2 LIDDA must ensure that the Diversion Coordinator performs the following duties:

- A. On a quarterly basis, as indicated in the PASRR Reporting Manual, report to HHSC the number of individuals admitted to nursing facilities, diverted from nursing facilities, and residing in a nursing facility for more than 90 days;
- B. On a quarterly basis, as indicated in the PASRR Reporting Manual, provide HHSC with information about barriers individuals have experienced in moving from a nursing facility to the community; and
- C. Perform all duties described in the IDD PASRR Handbook.

#### 1.3 **Administrative Requirements**

1.3.1 LIDDA must submit reports of non-compliance to initiate specialized services to the IDD Performance Contracts unit using the PASRR Reporting of Non-Compliance form (formerly the form entitled “PASRR LIDDA/LMHA Report of NF Non-Compliance to Consumer Rights and Services”) by the 15<sup>th</sup> of every month for the previous month’s data.

1.3.2 Upon notice from and in a format approved by the Health and Human Services Commission (“**HHSC**”), the LIDDA must provide data and other information related to the services and requirements.

- 1.3.3 At least semi-annually, LIDDA must provide or arrange for the provision of educational or informational activities addressing community living options for individuals in nursing facilities in the LIDDA's local service area and their families. These activities may include family-to-family and peer-to-peer programs, providing information about the benefits of community living options, facilitating visits in such settings, and offering opportunities to meet with other individuals who are living, working, and receiving services in integrated settings, with their families, and with community providers.
- A. These educational or information activities must be provided by persons who are knowledgeable about community services and supports.
  - B. These activities must not be provided by nursing facility staff or others with a contractual relationship with nursing facilities.
  - C. LIDDA must maintain documentation related to an offer of and attendance at educational or informational activities in the record for each individual in a nursing facility.
  - D. LIDDA must maintain evidence of the content of and attendance at each semi-annual educational or informational activity.
- 1.3.4 LIDDA must maintain a list of all individuals residing in a nursing facility who express an interest in transitioning to the community to any employee, contractor, or provider of specialized services. For each individual on the list, LIDDA must notify the habilitation coordinator to discuss community living options.
- 1.3.5 For an individual in a nursing facility, LIDDA must request reimbursement for the delivery of specialized services provided by the LIDDA in accordance with instructions on Form 1048 (Summary Sheet for Services to Individuals with IDD in a Nursing Facility) no later than the 15<sup>th</sup> day of the month that follows the month of service delivery.
- 1.3.6 For an individual in a nursing facility who is transitioning to the community and receiving service coordination, LIDDA must fund service coordination through Targeted Case Management.

## **ARTICLE 2. ENHANCED COMMUNITY COORDINATION**

### **2.1 Qualifications and Duties of Enhanced Community Coordinator**

- 2.1.1 For all individuals of any age diverting or transitioning from a nursing facility (“NF”) or transitioning from a state supported living center (SSLC) as required in the IDD PASRR Handbook and LIDDA Handbook, LIDDA shall ensure
- A. the individual is assigned an enhanced community coordinator who:
    - (1) meets the qualifications of a service coordinator in accordance with 40 Tex. Admin. Code, §2.559 (Minimum Qualifications); and

- (2) has two years' experience in providing service coordination to individuals with IDD; and

B. the assigned enhanced community coordinator:

- (1) complies with the rules governing service coordination for an individual with an intellectual disability (40 Tex. Admin. Code, Chapter 2, Local Authority Responsibilities, Subchapter L, Service Coordination for Individuals with an Intellectual Disability);
- (2) provides intensive and flexible support to achieve success in a community setting, including arranging for support needed to prevent and manage a crisis, such as a Transition Support Team or crisis respite;
- (3) provides pre- and post-transition services;
- (4) monitors the individual as required by the IDD PASSR Handbook and LIDDA Handbook for one year after transition or diversion; and
- (5) maintains a case load of no more than 30 individuals regardless of whether the enhanced community coordinator provides service coordination to other individuals who are not covered under the provisions.

## 2.2 Use of Designated Funds for Enhanced Community Coordination

2.2.1 LIDDA shall utilize designated funds, as submitted and approved by HHSC, to enhance an individual's natural supports and promote successful community living, such as:

- A. One-time emergency assistance:
  - i. Rental or utility assistance;
  - ii. Nutritional supplements;
  - iii. Clothing; and
  - iv. Medication;
- B. Items to address an individual's special needs, including minor home modifications not funded by other sources;
- C. Transportation to and from trial visits with community providers; and
- D. Educational tuition assistance, such as vocational programs through community colleges so an individual can develop job skills.

## 2.3 Reporting

2.3.1 LIDDA shall submit quarterly reporting through Secure File Transfer Protocol ("SFTP") by the 15<sup>th</sup> of the month that follows the previous fiscal quarter using a format prescribed by HHSC.

## 2.4 Payments

- 2.4.1 Upon funding, HHSC will pay LIDDA an amount not to exceed the allocation provided to the LIDDA to provide enhanced community coordination. Funds will be paid in compliance with the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (UGG), which may be found online at: <http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1&rgn=div5>
- 2.4.2 Under these requirements, LIDDA may request payment be provided in advance or may submit requests for reimbursement of costs
- A. Under 2 CFR §200.305, Reimbursement is the preferred method when the requirements in 2 CFR200.305 (b) cannot be met, when the federal awarding agency sets a specific condition per §200.207 (Specific Conditions), or when a non-federal entity requests payment by reimbursement. Requests for advance payment are subject to the financial management standards test and requirements established by UGG. An advance payment request must:
- (1) be limited to cash needed to meet the immediate needs of the grant project;
  - (2) minimize time between advances and payments for grants activities; and
  - (3) be deposited in a separate interest-bearing account and interest earned on grant funds must be returned to the federal government.
- B. If the LIDDA requests reimbursement for costs, LIDDA must submit an invoice, no later than the 15<sup>th</sup> day of the month that follows the month of service delivery, on a template provided by HHSC and include supporting documentation as described by HHSC.

## **ATTACHMENT A-5 HCS and TxHmL Interest Lists Maintenance**

### **Article 1      LIDDA COMPLIANCE AND MONITORING**

- (1) Local Intellectual and Development Disability Authority (“**LIDDA**”) must comply with the LIDDA handbook.
  
- (2) A LIDDA must maintain an up-to-date interest list of applicants interested in receiving HCS or TxHmL Program services for whom the LIDDA is the applicant’s designated LIDDA in HHSC data system in accordance with 40 Tex. Admin. Code, Chapter 9, Subchapter D, Rule §9.157(a) and 40 Tex. Admin. Code, Chapter 9, Subchapter N, Rule §9.566(a).
  
- (3) LIDDA must monitor and review pertinent XPTR reports (i.e., HC027880.W, HC027882.W, HC027883.M, and HC027884.W) to ensure compliance with the outcome targets for biennial contacts as required in the Performance Measures and Outcome Targets.

### **ARTICLE 2      REQUESTING A CHANGE TO THE LISTS**

- (1) In accordance with the LIDDA handbook, the LIDDA must submit a request to Texas Health and Human Services Commission (“**HHSC**”) to change a person’s Home and Community-based Services (“**HCS**”) and Texas Home Living (“**TxHmL**”) interest list information if due to an input or procedural error. The request must be made by the LIDDA’s, Intellectual and Developmental Disability (“**IDD**”) Director.

## ATTACHMENT A-6

### MEDICAID PROGRAM ENROLLMENT REQUIREMENTS

#### ARTICLE 1 ENROLLMENT INTO THE HCS AND TXHML PROGRAMS

1.1 Local Intellectual and Developmental Disability Authority (“LIDDA”) shall in accordance with the LIDDA handbook:

1.1.1 Designate staff to complete enrollments for the following programs:

- (a) Home and Community-based Services (“HCS”) Program;
- (b) Texas Home Living (“TxHmL”) Program; and
- (c) Community First Choice (“CFC”).

1.1.2 Require all designated staff to complete all online enrollment Health and Human Services Commission (“HHSC”) training before performing enrollment activities and at least annually thereafter for as long as the staff performs enrollment activities for the LIDDA. The training can be found at:

<https://hhs.texas.gov/doing-business-hhs/provider-portals/long-term-care-providers/local-intellectual-developmental-disability-authority-lidda/lidda-training-opportunities>

1.1.3 Ensure designated enrollment staff do not perform functions for the LIDDA’s provider operations.

1.2 LIDDA shall:

1.2.1 Not allow any of the LIDDA’s staff from its provider operations to initiate contact with the individual or LAR prior to the completion of the Documentation of Provider Choice (Form 1049).

1.2.2 For an individual who is being enrolled in the TxHmL Program, ensure the LIDDA service coordinator facilitates the completion of Form 8586 (TxHmL Program Service Coordination Notification).

1.2.3 Maintain the following completed forms in the person’s record:

- (a) Verification of Freedom of Choice (Form 8601);
- (b) Documentation of Provider Choice (Form 1049); and
- (c) TxHmL Program Service Coordination Notification (Form 8586), if applicable.



(d) for an individual who is being enrolled in the HCS or TxHmL Program, ensure the LIDDA service coordinator facilitates the completion of Form 8511 (Understanding Program Eligibility).

1.2.4 LIDDA must request an extension for the enrollment if the designated time frames cannot be met. HHSC will review all Request for an Enrollment Extension (Form 1045) and notify LIDDA accordingly.

## **ARTICLE 2 ENROLLMENT INTO THE ICF/IID PROGRAM**

2.1 LIDDA shall:

2.1.1. Complete enrollment of a person into the intermediate care facility for individuals with an intellectual disability or related conditions (“**ICF/IID**”) program in accordance with HHSC rules.

## ATTACHMENT A-7

### OPTIONS FOR IDD SERVICES AND SUPPORTS

- 1.1 In response to an inquiry for information about programs and services for an individual with an intellectual disability, the local intellectual and developmental disability authority (“**LIDDA**”) must in accordance with the LIDDA handbook:
  - a. provide an explanation of services and supports to the individual and legally authorized representative (“**LAR**”) or an actively involved person;
  - b. provide an oral explanation to at least one family member of the individual, if possible, if an LAR to whom the LIDDA provides an oral explanation of programs and services is not a family member of the individual;
  - c. provide an explanation of the different type of residential options, if the individual is seeking residential services; and
  - d. provide an explanation of permanency planning, if the individual seeking residential services is under 22 years of age.
  
- 1.2 LIDDA must follow form retention policies as identified in the LIDDA Handbook.

## **ATTACHMENT A-9**

### **GUIDELINES FOR DETERMINING AND CHANGING DESIGNATED LIDDA**

- 1.1 Refer to the local intellectual and developmental disability authority (“**LIDDA**”) handbook for how to determine the designated LIDDA. At its discretion, the Health and Human Services Commission (“**HHSC**”) may determine the designated LIDDA for any individual or assign a LIDDA the duties of the designated LIDDA for any individual for the purpose of expediting an individual’s admission or enrollment in services or ensuring permanency planning is conducted in accordance with state law.

## **ATTACHMENT A-10**

### **GUIDELINES FOR DETERMINING LESS RESTRICTIVE SETTING**

#### **ARTICLE 1 PURPOSE**

- 1.1. The guidelines set forth in the local intellectual and developmental disability authority (“**LIDDA**”) handbook describe the procedures to be used by the LIDDA’ interdisciplinary team (“**IDT**”) for determining the less restrictive setting for individuals who are requesting admission, or on whose behalf admission is requested, to a state supported living center. Note: the determination of a less restrictive setting is only one part of the admission criteria that must be considered by the IDT in accordance with 40 Tex. Admin. Code Chapter 2, Subchapter F, governing Continuity of Services – State Facilities, §2.255 and §2.257, and the Tex. Health and Safety Code, §593.052(a)(3).

**ATTACHMENT A-11  
COMMUNITY FIRST CHOICE  
ASSESSMENTS, SERVICE PLANNING AND SERVICE COORDINATION**

1.1 The local intellectual and developmental disability authority (“**LIDDA**”) must have an executed Memorandum of Understanding (“**MOU**”) with the Medicaid managed care organizations (“**MCOs**”) serving STAR+PLUS, STAR Kids and STAR Health individuals in the LIDDA’s local service area.

**1.2 Initial Eligibility Determination Activities**

1.2.1 LIDDA must complete all assessment activities required by the Health and Human Services Commission (“**HHSC**”) to determine whether the individual meets an intermediate care for individuals with an intellectual disability or related conditions (“**ICF/IID**”) level-of-care (“**LOC**”) for individuals referred to the LIDDA for assessments for eligibility for CFC services based on an intellectual or developmental disability (“**IDD**”).

1.2.2 LIDDA must conduct initial service planning activities and assign a service coordinator no later than 30 days after HHSC authorizes the individual’s ICF/IID LOC for individuals 21 years of age or older with an ICF/IID LOC.

1.2.3 LIDDA must conduct reassessment activities for individuals who are receiving CFC services and communicate with the MCOs as directed by HHSC no later than 60 days prior to the expiration of the ICF/IID LOC for an individual.

1.2.4 LIDDA must ensure an assigned service coordinator provides service coordination to an individual 21 years of age or older while the individual is receiving Community First Choice (“**CFC**”) services through an MCO in the LIDDA’s local service area (“**LSA**”).

1.2.5 LIDDA must participate in the fair hearing to explain why no services were recommended if an MCO denies an individual’s request for services because there were no services on the individual’s recommended service plan and the individual requests a fair hearing to appeal the denial.

**1.3 Annual Reassessment**

1.3.1 The LIDDA must conduct reassessment activities no later than 60 calendar days prior to the expiration of the ICF/IID LOC for an individual.

1.3.2 LIDDA continues to provide service coordination to the individual while the individual is receiving CFC services through an MCO in the LIDDA’s LSA.

1.4 LIDDA must participate in a fair hearing when an individual appeals an MCO’s denial of services.

**ATTACHMENT A-12  
MEDICAID ESTATE RECOVERY PROGRAM**

1. In accordance with Tex. Admin. Code, Title 1, Part 15, Chapter 373 Medicaid Estate Recovery Program (“**MERP**”), the local intellectual and development disability authority (LIDDA) must require its enrollment staff to provide a MERP overview to all individuals, and their authorized representatives or legal guardians, who seek enrollment in a state supported living center, a community intermediate care facility for individuals with an intellectual disability or related condition, Home and Community-based Services, or Texas Home Living Program. The MERP overview is part of the *Medicaid Estate Recovery Program Receipt Acknowledgement* (Form 8001) as identified in the LIDDA handbook.

## **ATTACHMENT A-13**

### **Permanency Planning Requirements**

1.1 Local intellectual and development disability authority (“**LIDDA**”) shall conduct and document permanency planning for individuals under age 22 years enrolling in or currently residing in an intermediate care facility for individuals with an intellectual disability or related conditions or Home and Community-based Services residential setting in accordance with the Health and Human Services Commission rules and the LIDDA handbook.

1.1.1 LIDDA shall use the following Client Assignment and Registration (“**CARE**”) System XPTR reports to identify the individuals in need of permanency planning and the timeframes for conducting permanency planning:

HC021395 (Permanency Plan Reviews Needed); and  
HC021393 (PPRS Status by Individual).

Such CARE XPTR reports indicate individuals newly identified as needing permanency planning. Permanency Plan Reviews Needed report also includes the names of individuals whose plan are past due or have never been done. LIDDA has 20 calendar days to conduct permanency planning starting the first business day an individual’s name first appears on the report.

## **ATTACHMENT A-14 VOTER REGISTRATION**

### **Article 1 OPPORTUNITY TO REGISTER TO VOTE**

- 1.1 Local intellectual and developmental disability authority (“**LIDDA**”) shall provide individuals 18 years of age or older an opportunity to register to vote upon entry into services, annually, and when notified of an individual’s change of address in accordance with the LIDDA handbook.

### **Article 2 ORDERING VOTER REGISTRATION FORMS FROM HHSC**

- 2.1 LIDDA may order voter registration forms through Pinnacle Cart.



## **ATTACHMENT A-15 CRISIS RESPITE**

1.1 The local intellectual and developmental disability authority (“**LIDDA**”) shall ensure the provision of crisis respite in the LIDDA’s local service area accordance with the requirements stated in this Attachment A-15.

### **1.2 Crisis Respite Plan**

1.2.1 LIDDA must submit and maintain a crisis respite plan (the "**Plan**") that ensures the provision of crisis respite to individuals with an intellectual and development disability (“**IDD**”) in LIDDA’s local service area. The Plan must:

- A. ensure the continuous availability of in-home or out of home crisis respite for individuals with IDD, including whether the LIDDA is responsible for operating crisis respite directly or through subcontract(s).
- B. describe how the LIDDA will confirm that a setting utilized for crisis respite pursuant to this Attachment is in compliance with life safety requirements specific to its setting type, if any, and
- C. describe the intended location(s), identified by county, and how the LIDDA will staff the location, including but not limited to:
  - (1) Staffing strategies, taking into account changes in census and specific needs of individuals;
  - (2) Scheduling; and
  - (3) Staff qualifications, which at minimum must be consistent with 40 Tex. Admin. Code, §2.315(h)(4)
- D. describe how the LIDDA will identify and address adverse trends, such as recidivism

### **1.3 Revision to Crisis Respite Plan**

1.3.1 LIDDA must revise its Plan to include a description of necessary revisions. Revisions may be based on a reassessment of local needs and/or changes in available resources.

1.3.2 LIDDA must submit the revised Plan electronically within 30 calendar days of proposed changes to designated contract manager.

### **1.4 Reporting**

1.4.1 LIDDA will maintain documentation and report to HHSC:

- (a) By the 15<sup>th</sup> day of the month following each fiscal quarter, information related to crisis respite, using templated provided by HHSC; and
- (b) Annually, the crisis respite plan as described in section 1.2.1 of this attachment.

### 1.5 **Payment**

HHSC will pay an amount not to exceed the allocation as provide in the Allocation Schedule to the LIDDA. LIDDA must comply with the Uniform Grant Management Standards and Uniform Administrative Requirements, Cost Principles, & Audit Requirements for Federal Awards Allowable Costs of this Contract related to allowable cost per the Uniform Grant Management Standards published by the Comptroller of Public Accounts. HHSC will pay an amount not to exceed the allocation to LIDDA to implement the LIDDA's revised crisis respite plan in fiscal year 2021.

## **ATTACHMENT A-16 CRISIS INTERVENTION SPECIALIST**

### **Article 1        RESPONSIBILITIES OF THE LIDDA**

#### **1.1    One staff assigned as a lead crisis intervention specialist**

1.1.1    The local intellectual and developmental disability authority (“**LIDDA**”) shall assign one full-time employee or contract employee as a lead crisis intervention specialist to oversee all activities required under this Attachment. The funding for one full-time equivalent crisis intervention specialist for the amount identified on the Allocation Schedule (see Attachment B, Table 1). LIDDA must ensure the lead crisis intervention specialist is not assigned responsibilities, duties, or tasks other than those described in the LIDDA handbook.

#### **1.2    Additional Staff**

1.2.1    Except as allowed by section 1.2.2, if the LIDDA is allocated funding in excess of one full-time equivalent as identified on the Allocation Schedule, the LIDDA must use the excess funds to assign additional staff to support the lead crisis intervention specialist.

1.2.2    With written approval from the Health and Human Services Commission (“**HHSC**”), LIDDA may use allocated funding in excess of one full-time equivalent as identified on the Allocation Schedule to fund the provision of crisis respite in accordance with Crisis Respite.

#### **1.3    Qualifications of a crisis intervention specialist and additional staff**

1.3.1    LIDDA must ensure a crisis intervention specialist:

A. Meets the preferred qualifications of at least one of the following,

- (1) a licensed behavior analyst;
- (2) a licensed professional counselor;
- (3) a licensed psychologist;
- (4) a licensed marriage and family therapist;
- (5) a licensed master’s level or clinical social worker; and
- (6) a Psychiatrist.

1.3.2    Meets the minimum qualifications of:

A. A qualified intellectual disability professional as defined in 42 Code of Federal Regulations (“**CFR**”), §483.430(a); and

B. At least two years of experience working with individuals with IDD who have mental health and behavior support needs or linking people with IDD to mental health supports, in addition to the one year of required experience of a qualified intellectual disability professional described in 42 CFR §483.430(a)(1).

1.3.3 LIDDA must ensure a person who meets minimum qualifications has access to a professional who meets the preferred qualifications as described in section 1.3.1. The professional who meets preferred qualifications must be available for consultation as needed.

1.3.4 LIDDA must ensure additional staff meets the qualifications for a qualified intellectual disability professional as defined in 42 CFR §483.430(a);

1.3.5 LIDDA must ensure a crisis intervention specialist and additional staff be knowledgeable about IDD programs and services in the local service area.

#### 1.4 **Reporting**

LIDDA will maintain documentation and submit a quarterly report, in a format prescribed by HHSC, by the 15<sup>th</sup> day of the month following each fiscal quarter. See LIDDA Handbook for more information.

**ATTACHMENT B  
BUDGET/REQUIRED LOCAL MATCH  
MHMR AUTHORITY OF BRAZOS VALLEY ("LIDDA")**

**Introduction.** The Health and Human Services Commission ("HHSC") shall authorize the Texas Comptroller of Public Accounts to release to the local intellectual and developmental disability authority ("LIDDA") the funds listed in Tables 1, 3, 4 and 6 to this Attachment B in accordance with the following schedule: 40% at the commencement of the first quarter, 30% at the commencement of the second quarter, and 15% at the commencement of the third and fourth quarters of the subject fiscal year.

**ARTICLE I . ALLOCATION OF FUNDS FOR LIDDA SERVICES IN FISCAL YEAR 2020**

**TABLE 1. FISCAL YEAR 2020 ALLOCATION SCHEDULE**

<b>General Revenue</b>	<b>Permanency Planning</b>	<b>CLOIP</b>	<b>IDD Crisis Intervention Specialists</b>	<b>IDD Crisis Respite Services</b>	<b>Total Not-to-Exceed Fiscal Year 2020 Allocation</b>
<b>\$844,172.20</b>	<b>\$15,662.41</b>	<b>\$210,385.18</b>	<b>\$164,134.74</b>	<b>\$44,392.48</b>	<b>\$1,318,996.08</b>

**TABLE 2. REQUIRED LOCAL MATCH FOR FISCAL YEAR 2020**

<b>Allocations Requiring Local Match</b>	<b>Required %</b>	<b>Required Local Match Amount</b>
<b>\$844,172.20</b>	<b>8.0%</b>	<b>\$67,533.78</b>

**ATTACHMENT B  
BUDGET/REQUIRED LOCAL MATCH FISCAL  
MHMR AUTHORITY OF BRAZOS VALLEY**

**ARTICLE II . OTHER SERVICES FOR FISCAL YEAR 2020**

**TABLE 3**

<b>Service Description</b>	<b>Fiscal Year 2020 Not-to-Exceed Amount</b>
<b>Enhanced Community Coordination 9/1/2019-12/31/2019</b>	<b>\$11,588.40</b>
<b>Enhanced Community Coordination 1/1/2020-8/31/2020</b>	<b>\$28,660.67</b>

**ARTICLE III . ALLOCATION OF FUNDS FOR LIDDA SERVICES IN FISCAL YEAR 2021**

**TABLE 4. FISCAL YEAR 2021 ALLOCATION SCHEDULE**

<b>General Revenue</b>	<b>Permanency Planning</b>	<b>CLOIP</b>	<b>IDD Crisis Intervention Specialists</b>	<b>IDD Crisis Respite Services</b>	<b>Total Not-to-Exceed Fiscal Year 2021 Allocation</b>
\$848,460.00	\$15,663.00	\$210,386.00	\$164,135.00	\$44,392.00	\$1,297,366.33

**TABLE 5. REQUIRED LOCAL MATCH FOR FISCAL YEAR 2021**

<b>Allocations Requiring Local Match</b>	<b>Required %</b>	<b>Required Local Match Amount</b>
\$848,460.00	8.0%	\$67,876.80

**ARTICLE IV. OTHER SERVICES FOR FISCAL YEAR 2021**

**TABLE 6**

<b>Service Description</b>	<b>Fiscal Year 2021 Not-to-Exceed Amount</b>
<b>Enhanced Community Coordination 9/1/2020-12/31/2020</b>	<b>\$14,330.33</b>





# TEXAS

## Health and Human Services

**Health and Human Services (HHS)**

**Uniform Terms and Conditions -  
Governmental Entity**

**Version 3.2**

Published and Effective - May 2020

Responsible Office: Chief Counsel

## Table of Contents

<b>ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS .....</b>	<b>5</b>
<b>1.1    DEFINITIONS .....</b>	<b>5</b>
<b>1.2    INTERPRETIVE PROVISIONS .....</b>	<b>6</b>
<b>ARTICLE II. PAYMENT PROVISIONS .....</b>	<b>7</b>
<b>2.1    PAYMENT .....</b>	<b>7</b>
<b>2.2    ANCILLARY AND TRAVEL EXPENSES .....</b>	<b>7</b>
<b>2.3    NO QUANTITY GUARANTEES .....</b>	<b>7</b>
<b>2.4    TAXES .....</b>	<b>7</b>
<b>ARTICLE III. STATE AND FEDERAL FUNDING .....</b>	<b>8</b>
<b>3.1    EXCESS OBLIGATIONS PROHIBITED .....</b>	<b>8</b>
<b>3.2    NO DEBT AGAINST THE STATE .....</b>	<b>8</b>
<b>3.3    DEBT AND DELINQUENCIES .....</b>	<b>8</b>
<b>3.4    REFUNDS AND OVERPAYMENTS .....</b>	<b>8</b>
<b>ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES, AND CERTIFICATIONS.....</b>	<b>9</b>
<b>4.1    WARRANTY .....</b>	<b>9</b>
<b>4.2    CONTRACT AFFIRMATIONS.....</b>	<b>9</b>
<b>4.3    FEDERAL ASSURANCES .....</b>	<b>9</b>
<b>4.4    FEDERAL CERTIFICATIONS .....</b>	<b>9</b>
<b>ARTICLE V. INTELLECTUAL PROPERTY.....</b>	<b>9</b>
<b>5.1    OWNERSHIP OF WORK PRODUCT .....</b>	<b>9</b>
<b>5.2    PERFORMING AGENCY’S PRE-EXISTING WORKS.....</b>	<b>10</b>
<b>5.3    THIRD PARTY IP.....</b>	<b>10</b>
<b>5.4    AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS .....</b>	<b>11</b>
<b>5.5    DELIVERY UPON TERMINATION OR EXPIRATION .....</b>	<b>11</b>
<b>5.6    SURVIVAL.....</b>	<b>11</b>
<b>5.7    SYSTEM AGENCY DATA.....</b>	<b>11</b>
<b>ARTICLE VI. PROPERTY .....</b>	<b>12</b>
<b>6.1    USE OF STATE PROPERTY .....</b>	<b>12</b>
<b>6.2    DAMAGE TO GOVERNMENT PROPERTY.....</b>	<b>12</b>
<b>6.3    PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT.....</b>	<b>12</b>

**ARTICLE VII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY ..... 13**

**7.1 RECORD MAINTENANCE AND RETENTION .....13**

**7.2 AGENCY’S RIGHT TO AUDIT .....13**

**7.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS .....14**

**7.4 STATE AUDITOR’S RIGHT TO AUDIT .....14**

**7.5 CONFIDENTIALITY.....14**

**ARTICLE VIII. CONTRACT REMEDIES AND EARLY TERMINATION..... 14**

**8.1 CONTRACT REMEDIES.....14**

**8.2 TERMINATION FOR CONVENIENCE .....15**

**8.3 TERMINATION FOR CAUSE .....15**

**8.4 PERFORMING AGENCY RESPONSIBILITY FOR SYSTEM AGENCY’S TERMINATION COSTS .....15**

**ARTICLE IX. GENERAL PROVISIONS ..... 15**

**9.1 AMENDMENT .....15**

**9.2 INSURANCE .....15**

**9.3 LIMITATION ON AUTHORITY .....16**

**9.4 LEGAL OBLIGATIONS .....16**

**9.5 CHANGE IN LAWS AND COMPLIANCE WITH LAWS.....16**

**9.6 E-VERIFY PROGRAM.....17**

**9.7 PERMITTING AND LICENSURE.....17**

**9.8 SUBCONTRACTORS .....17**

**9.9 INDEPENDENT PERFORMING AGENCY .....17**

**9.10 GOVERNING LAW AND VENUE .....18**

**9.11 SEVERABILITY .....18**

**9.12 SURVIVABILITY.....18**

**9.13 FORCE MAJEURE.....18**

**9.14 DISPUTE RESOLUTION.....18**

**9.15 NO IMPLIED WAIVER OF PROVISIONS .....19**

**9.16 MEDIA RELEASES .....19**

**9.17 NO MARKETING ACTIVITIES .....19**

**9.18 PROHIBITION ON NON-COMPETE RESTRICTIONS.....19**

**9.19 SOVEREIGN IMMUNITY.....20**

**9.20 ENTIRE CONTRACT AND MODIFICATION .....20**

**9.21 COUNTERPARTS.....20**

<b>9.22</b>	<b>CIVIL RIGHTS .....</b>	<b>20</b>
<b>9.23</b>	<b>ENTERPRISE INFORMATION MANAGEMENT STANDARDS .....</b>	<b>21</b>
<b>9.24</b>	<b>DISCLOSURE OF LITIGATION .....</b>	<b>21</b>
<b>9.25</b>	<b>NO THIRD-PARTY BENEFICIARIES .....</b>	<b>22</b>
<b>9.26</b>	<b>BINDING EFFECT .....</b>	<b>22</b>

## ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

### 1.1 DEFINITIONS

As used in this Contract, unless 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 Contract.

“Contract” means the Signature Document, these Uniform Terms and Conditions, along with any attachments, and any Amendments, purchase orders, and Work Orders that may be issued by the System Agency.

“Deliverables” means the goods, services, Work, and Work Product to be provided to System Agency under the Contract.

“DSHS” means the Department of State Health Services.

“Effective Date” means the date on which the Contract 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.

“HHSC” means the Health and Human Services Commission.

“Health and Human Services” or “HHS” includes HHSC and DSHS.

“HUB” means Historically Underutilized Business, as defined by Chapter 2161 of the Texas Government Code.

“Intellectual Property Rights” means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such rights 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.

“Local Government” means a Texas governmental unit defined under and authorized to enter this contract by Texas Government Code, Chapter 791.

“Parties” means the System Agency and Performing Agency, collectively.

“Party” means either the System Agency or Performing Agency, individually.

“Performing Agency” means the State Agency or Local Government providing the goods or services defined in this Contract.

“Receiving Agency” means HHSC or DSHS, as applicable, Agency receiving the benefit of the goods or services provided under this Contract.

“Signature Document” means the document executed by both Parties that sets forth all the documents that constitute the Contract.

“Solicitation” means the document, if any, issued by the System Agency (including any published addenda, exhibits, and attachments) under which the goods or services provided under the Contract were initially requested, which is incorporated by reference for all purposes in its entirety.

“Solicitation Response” means Performing Agency’s full and complete response (including any attachments and addenda) to the Solicitation, which is incorporated by reference for all purposes in its entirety.

“State Agency” means a Texas “Agency” as defined under Texas Government Code, Chapter 771.

“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 laws, rules, and policies.

“System Agency” means HHSC or DSHS, as applicable.

“Third Party IP” means the Intellectual Property Rights of any third party that is not a party to this Contract, and that is not a subcontractor.

“Work” means all services to be performed, goods to be delivered, and any appurtenant actions performed, and items produced, conceived, or developed, including Deliverables.

“Work Order” means an individually negotiated document that is executed by both Parties and which authorizes a Project, if any, in an indefinite quantity Contract.

“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 Performing Agency in connection with Performing Agency’s performance of its duties under the Contract or through use of any funding provided under this Contract.

## **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 Contract as a

whole and not to any particular provision, section, attachment, or schedule of this Contract unless otherwise specified.

- C. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Contract, (i) references to contracts (including this Contract) 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 Contract, and (ii) references to any statute, rule, or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, or supplementing the statute or regulation.
- D. The captions and headings of this Contract are for convenience of reference only and do not affect the interpretation of this Contract.
- E. All attachments, including those incorporated by reference, and any Amendments are considered part of the terms of this Contract.
- F. This Contract may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative.
- G. 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.”
- H. Time is of the essence in this Contract.

## **ARTICLE II. PAYMENT PROVISIONS**

### **2.1 PAYMENT**

Payment shall be made in accordance with Government Code, Chapter 771, Government Code, Chapter 791, or Government Code, Chapter 2251.051, as applicable.

### **2.2 ANCILLARY AND TRAVEL EXPENSES**

- A. Except as otherwise provided in the Contract, no ancillary expenses incurred by the Performing Agency 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. When the reimbursement of travel expenses is authorized by the Contract, all such expenses will be reimbursed in accordance with the rates set by the Texas Comptroller of Public Accounts’ *Textravel* accessible at the Texas Comptroller of Public Accounts website.

### **2.3 NO QUANTITY GUARANTEES**

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

### **2.4 TAXES**

Purchases made for State of Texas use are exempt from the State Sales Tax and Federal Excise Tax. Performing Agency represents and warrants that it shall pay all taxes or similar amounts resulting from the Contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Performing Agency or its employees. System Agency shall not be liable for any taxes resulting from the contract.

## ARTICLE III. STATE AND FEDERAL FUNDING

### 3.1 EXCESS OBLIGATIONS PROHIBITED

The Contract is subject to termination or cancellation, without penalty to the System Agency, either in whole or in part, subject to the availability of state 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 Performing Agency's delivery or performance under the Contract impossible or unnecessary, the Contract 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 Performing Agency for any damages that are caused or associated with such termination, or cancellation, and System Agency will not be required to give prior notice.

### 3.2 NO DEBT AGAINST THE STATE

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

### 3.3 DEBT AND DELINQUENCIES

Performing Agency agrees that any payments due under the Contract 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.

### 3.4 REFUNDS AND OVERPAYMENTS

- A. At its sole discretion, the System Agency may:
- i. withhold all or part of any payments to Performing Agency to offset overpayments, unallowable or ineligible costs made to the Performing Agency, or if any required financial status report(s) is not submitted by the due date(s); or,
  - ii. require Performing Agency to promptly refund or credit - within thirty (30) calendar days of written notice - any funds erroneously paid by System Agency which are not expressly authorized under the Contract.
- 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 Contract, including any unapproved expenditures. Performing Agency understands and agrees that it will be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Performing Agency further understands and agrees that reimbursement of such disallowed costs shall be paid by Performing Agency from funds which were not provided or otherwise made available to Performing Agency under this Contract.



## **ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES, AND CERTIFICATIONS**

### **4.1 WARRANTY**

Performing Agency warrants that all Work under this Contract shall be completed in a manner consistent with standards under the terms of this Contract, in the applicable trade, profession, or industry; shall conform to or exceed the specifications set forth in the Contract; 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 Performing Agency has failed to complete Work timely or to perform satisfactorily under conditions required by this Contract, the System Agency may require Performing Agency, at its sole expense, to:

- i. Repair or replace all defective or damaged Work;
- ii. Refund any payment Performing Agency received from System Agency for all defective or damaged Work and, in conjunction therewith, require Performing Agency to accept the return of such Work; and,
- iii. Take necessary action to ensure that Performing Agency's future performance and Work conform to the Contract requirements.

### **4.2 CONTRACT AFFIRMATIONS**

Performing Agency certifies that, to the extent Contract Affirmations are incorporated into the Contract under the Signature Document, the Performing Agency has reviewed the Contract Affirmations and that Performing Agency is in compliance with all requirements.

### **4.3 FEDERAL ASSURANCES**

Performing Agency certifies that, to the extent federal assurances are incorporated into the Contract under the Signature Document, the Performing Agency has reviewed the federal assurances and that Performing Agency is in compliance with all requirements.

### **4.4 FEDERAL CERTIFICATIONS**

Performing Agency certifies that, to the extent federal certifications are incorporated into the Contract under the Signature Document, the Performing Agency has reviewed the federal certifications and that Performing Agency is in compliance with all requirements. In addition, Performing Agency certifies that it is and shall remain in compliance with all applicable federal laws, rules, and regulations, as they may pertain to this Contract.

## **ARTICLE V. INTELLECTUAL PROPERTY**

### **5.1 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. Performing Agency and Performing Agency'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, Performing Agency 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. Performing Agency 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 Performing Agency has any rights in and to the Work Product that cannot be assigned to System Agency, Performing Agency 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 Performing Agency. Performing Agency shall provide System Agency access during normal business hours to all Vendor materials, premises, and computer files containing the Work Product.

## 5.2 PERFORMING AGENCY'S PRE-EXISTING WORKS

- A. To the extent that Performing Agency incorporates into the Work Product any works of Performing Agency that were created by Performing Agency or that Performing Agency acquired rights in prior to the Effective Date of this Contract ("**Incorporated Pre-existing Works**"), Performing Agency retains ownership of such Incorporated Pre-existing Works.
- B. Performing Agency 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. Performing Agency represents, warrants, and covenants to System Agency that Performing Agency has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

## 5.3 THIRD PARTY IP

- A. To the extent that any Third Party IP is included or incorporated in the Work Product by Performing Agency, Performing Agency 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 purposes only,
  - i. 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
  - ii. to authorize others to do any or all of the foregoing.
- B. Performing Agency shall obtain System Agency's advance written approval prior to incorporating any Third Party IP into the Work Product, and Performing Agency shall

notify System Agency on delivery of the Work Product if such materials include any Third Party IP.

- C. Performing Agency shall provide System Agency all supporting documentation demonstrating Performing Agency's compliance with this **Section 5.3**, including without limitation documentation indicating a third party's written approval for Performing Agency to use any Third Party IP that may be incorporated in the Work Product.

#### **5.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS**

Performing Agency shall have written, binding agreements with its employees and subcontractors that include provisions sufficient to give effect to and enable Performing Agency's compliance with Performing Agency's obligations under this **Article V**.

#### **5.5 DELIVERY UPON TERMINATION OR EXPIRATION**

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

#### **5.6 SURVIVAL**

The provisions and obligations of this **Article V** survive any termination or expiration of the Contract.

#### **5.7 SYSTEM AGENCY DATA**

- A. As between the Parties, all data and information acquired, accessed, or made available to Performing Agency by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Performing Agency in the course of providing data processing services in connection with Performing Agency's performance hereunder (the "**System Agency Data**"), is owned solely by System Agency.
- B. Performing Agency 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 Performing Agency to fulfill its obligations under the Contract or as authorized in advance in writing by System Agency.
- C. For the avoidance of doubt, Performing Agency 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. Performing Agency 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 Performing Agency's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Performing Agency's performance of its obligations hereunder.

## ARTICLE VI. PROPERTY

### 6.1 USE OF STATE PROPERTY

- A. Performing Agency is prohibited from using State Property for any purpose other than performing services authorized under the Contract.
- 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. Performing Agency shall not remove State Property from the continental United States. In addition, Performing Agency may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
- D. Performing Agency shall not perform any maintenance services on State Property unless the Contract expressly authorizes such services.
- E. During the time that State Property is in the possession of Performing Agency, Performing Agency 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 Performing Agency's use of State Property that exceeds the Contract scope. Performing Agency shall fully reimburse such charges to System Agency within ten (10) calendar days of Performing Agency's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Contract shall constitute breach of contract and may result in termination of the Contract and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

### 6.2 DAMAGE TO GOVERNMENT 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 Performing Agency or Performing Agency's employees, agents, Subcontractors, and suppliers, Performing Agency 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. Performing Agency shall notify System Agency of the loss, destruction, or damage of equipment or property within one (1) business day. Performing Agency shall reimburse System Agency and the State of Texas for such property damage within 10 calendar days after Performing Agency's receipt of System Agency's notice of amount due.

### 6.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT

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

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

### **7.1 RECORD MAINTENANCE AND RETENTION**

- A. Performing Agency 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 Contract and all state and federal rules, regulations, and statutes.
- B. Performing Agency shall maintain and retain legible copies of this Contract and all records relating to the performance of the Contract including supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by Performing Agency for a minimum of seven (7) years after the Contract expiration date or seven (7) years after the completion of all audit, claim, litigation, or dispute matters involving the Contract are resolved, whichever is later.

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

- A. Performing Agency shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Performing Agency pertaining to the Contract 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, Performing Agency and any of Performing Agency'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 Contract. If the Contract 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, HHSC, HHSC's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office, 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, Performing Agency shall produce original documents related to this Contract.
- 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. Performing Agency shall include this provision concerning the right of access to, and examination of, sites and information related to this Contract in any subcontract it awards.



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

- A. Performing Agency 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 Contract and the services and Deliverables provided. Any such correction will be at Performing Agency's or its Subcontractor's sole expense. Whether Performing Agency's action corrects the noncompliance shall be solely the decision of the System Agency.
- B. As part of the services, Performing Agency must provide to System Agency upon request a copy of those portions of Performing Agency's and its subcontractors' internal audit reports relating to the services and Deliverables provided to the State under the Contract.

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

- A. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. The acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract 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.
- B. The Performing Agency shall comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.

### **7.5 CONFIDENTIALITY**

Performing Agency 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 Data, System Agency's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Contract. The obligations of Performing Agency under this section will survive termination or expiration of this Contract. This requirement must be included in all subcontracts awarded by Performing Agency.

## **ARTICLE VIII. CONTRACT REMEDIES AND EARLY TERMINATION**

### **8.1 CONTRACT REMEDIES**

To ensure Performing Agency's full performance of the Contract and compliance with applicable law, the System Agency reserves the right to hold Performing Agency accountable for breach of contract or substandard performance and may take remedial or corrective actions, including, but not limited to:

- i. suspending all or part of the Contract;
- ii. requiring the Performing Agency to take specific actions in order to remain in compliance with the Contract;
- iii. recouping payments made by the System Agency to the Performing Agency found to be in error;

- iv. suspending, limiting, or placing conditions on the Performing Agency's continued performance of Work; or
- v. imposing any other remedies, sanctions, or penalties authorized under this Contract or permitted by federal or state law.

## **8.2 TERMINATION FOR CONVENIENCE**

The System Agency may terminate the Contract, 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.

## **8.3 TERMINATION FOR CAUSE**

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

### **i. Material Breach**

The System Agency will have the right to terminate the Contract in whole or in part if the System Agency determines, in its sole discretion, that Performing Agency has materially breached the Contract or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of Performing Agency's duties under the Contract. Performing Agency's misrepresentation in any aspect of Performing Agency's Solicitation Response, if any, or Performing Agency's addition to the System for Award Management (SAM) exclusion list will also constitute a material breach of the Contract.

### **ii. Failure to Maintain Financial Viability**

The System Agency may terminate the Contract if, in its sole discretion, the System Agency has a good faith belief that Performing Agency no longer maintains the financial viability required to complete the Work, or otherwise fully perform its responsibilities under the Contract.

## **8.4 PERFORMING AGENCY RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS**

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

# **ARTICLE IX. GENERAL PROVISIONS**

## **9.1 AMENDMENT**

The Contract may only be amended by an Amendment executed by both Parties.

## **9.2 INSURANCE**

A. Unless otherwise specified in this Contract, Performing Agency 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. Performing Agency 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, Performing Agency 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, Performing Agency must produce renewal certificates for each type of coverage.

- B. These and all other insurance requirements under the Contract apply to both Performing Agency and its subcontractors, if any. Performing Agency is responsible for ensuring its subcontractors' compliance with all requirements.

### **9.3 LIMITATION ON AUTHORITY**

- A. The authority granted to Performing Agency by the System Agency is limited to the terms of the Contract.
- B. Performing Agency 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 Contract; no other authority, power, or use is granted or implied. Performing Agency may not incur any debt, obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.
- C. Performing Agency may not rely upon implied authority and is not granted authority under the Contract 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 Contract. However, upon System Agency request and with reasonable notice from System Agency to the Performing Agency, the Performing Agency shall assist the System Agency in communications and negotiations regarding the Work under the Contract with state and federal governments.

### **9.4 LEGAL OBLIGATIONS**

Performing Agency shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including all federal and state accessibility laws relating to direct and indirect use of information and communication technology. Performing Agency shall be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them.

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

Performing Agency shall comply with all laws, regulations, requirements and guidelines applicable to a vendor providing services and products required by the Contract to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended



throughout the term of the Contract. System Agency reserves the right, in its sole discretion, to unilaterally amend the Contract 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.

#### **9.6 E-VERIFY PROGRAM**

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

- i. all persons employed by Performing Agency to perform duties within Texas; and
- ii. all persons, including subcontractors, assigned by the Performing Agency to perform Work pursuant to the Contract within the United States of America.

#### **9.7 PERMITTING AND LICENSURE**

At Performing Agency's sole expense, Performing Agency shall procure and maintain for the duration of this Contract 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 Performing Agency to provide the goods or services required by this Contract. Performing Agency shall be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Performing Agency shall be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

#### **9.8 SUBCONTRACTORS**

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

#### **9.9 INDEPENDENT PERFORMING AGENCY**

Performing Agency and Performing Agency's employees, representatives, agents, subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Contract. Neither Performing Agency nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. Performing Agency 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 Contract shall not create any joint venture, partnership, agency, or employment relationship between Performing Agency and System Agency.

## 9.10 GOVERNING LAW AND VENUE

This Contract 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 Contract 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.

## 9.11 SEVERABILITY

If any provision of the Contract is held to be illegal, invalid or 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 Contract. It is the intent and agreement of the Parties this Contract 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 Contract will continue in full force and effect.

## 9.12 SURVIVABILITY

Expiration or termination of the Contract for any reason does not release Performing Agency from any liability or obligation set forth in the Contract 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 Contract, including without limitation the provisions regarding warranty, indemnification, confidentiality, and rights and remedies upon termination.

## 9.13 FORCE MAJEURE

Neither Party shall be liable to the other for any delay in, or failure of performance of, any requirement included in the Contract 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.

## 9.14 DISPUTE RESOLUTION

A. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute arising under the Contract. If the Performing Agency's claim for breach of contract cannot be resolved informally with the System Agency, the claim shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, the Performing Agency shall submit written notice, as required by Chapter 2260, to the individual identified in the Contract for receipt of notices. Any informal resolution efforts shall in no way modify the requirements or toll the timing of the formal written notice of a claim for breach of contract required under §2260.051 of the Texas Government Code. Compliance by the Performing Agency with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.

- B. The contested case process provided in Chapter 2260 is the Performing Agency's sole and exclusive process for seeking a remedy for an alleged breach of contract by the System Agency if the Parties are unable to resolve their disputes as described above.
- C. Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by the System Agency, the Performing Agency shall continue performance and shall not be excused from performance during the period of any breach of contract claim or while the dispute is pending. However, the Performing Agency may suspend performance during the pendency of such claim or dispute if the Performing Agency has complied with all provisions of Section 2251.051, Texas Government Code, and such suspension of performance is expressly applicable and authorized under that law.

### **9.15 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 Performing Agency which is in violation or breach of the terms of the Contract shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

### **9.16 MEDIA RELEASES**

- A. Performing Agency 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. Performing Agency is not authorized to make or participate in any media releases or public announcements pertaining to this Contract 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. Performing Agency may publish, at its sole expense, results of Performing Agency performance under the Contract 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.

### **9.17 NO MARKETING ACTIVITIES**

Performing Agency is prohibited from using the Work for any Performing Agency or third-party marketing, advertising, or promotional activities, without the prior written consent of System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Performing Agency'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 Performing Agency as part of the Work.

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

Performing Agency 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.

## 9.19 SOVEREIGN IMMUNITY

Nothing in the Contract shall be construed as a waiver of the System Agency's or the State's sovereign immunity. This Contract 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 Contract 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 Contract or by its conduct prior to or subsequent to entering into the Contract.

## 9.20 ENTIRE CONTRACT AND MODIFICATION

This Contract 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 Contract will be harmonized with this Contract to the extent possible.

## 9.21 COUNTERPARTS

This Contract 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 Contract.

## 9.22 CIVIL RIGHTS

- A. Performing Agency shall comply with all applicable 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, *et seq.*);
  - v. Title IX of the Education Amendments of 1972 (20 U.S.C. §1681, *et seq.*);
  - 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 Agreement.
- B. Performing Agency shall comply with all amendments to these 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 service or other benefit provided by Federal or State funding, or otherwise be subjected to discrimination.
- C. Performing Agency shall 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 Performing Agency 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. Civil rights laws require Performing Agency to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Performing Agency shall take

reasonable steps to provide services and information, both orally and in writing and electronically, 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.

- D. Performing Agency shall 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: <http://hhscx.hhsc.texas.gov/system-support-services/civil-rights/publications>
- E. Performing Agency shall comply with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 28 CFR Subpart G § 42.503, and Americans with Disabilities Act of 1990 and its implementing regulations at 28 CFR Subpart B §35.130 which includes requiring Performing Agency to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the Performing Agency can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.
- F. Performing Agency shall comply with federal regulations regarding equal treatment for faith-based organizations under 45 C.F.R. Part 87 or 7 C.F.R. Part 16, as applicable. Performing Agency shall not discriminate against clients or prospective clients on the basis of religion or religious belief, and shall provide written notice to beneficiaries of their rights.
- G. Upon request, Performing Agency shall provide the HHSC Civil Rights Office with copies of the Performing Agency's civil rights policies and procedures.
- H. Performing Agency must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Contract. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. This notice must be directed to:

HHSC Civil Rights Office  
701 W. 51<sup>st</sup> Street, Mail Code W206  
Austin, Texas 78751  
Phone Toll Free: (888) 388-6332  
Phone: (512) 438-4313  
Fax: (512) 438-5885.

### **9.23 ENTERPRISE INFORMATION MANAGEMENT STANDARDS**

Performing Agency shall conform to HHS standards for data management as described by the policies of the HHS Chief Data and Analytics Officer. 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.

### **9.24 DISCLOSURE OF LITIGATION**

- A. The Performing Agency must disclose in writing to the contract manager assigned to this Contract any material civil or criminal litigation or indictment either threatened or pending involving the Performing Agency. "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 Performing Agency 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 Contract 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 Performing Agency’s financial condition.

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

**9.25 NO THIRD-PARTY BENEFICIARIES**

The Contract 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 Contract as a third-party beneficiary or otherwise.

**9.26 BINDING EFFECT**

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

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**



**Attachment D**  
**Local Intellectual and Developmental Disability Authority (LIDDA)**  
**Special Conditions**

**ARTICLE 1 FORMS**

**1.1 Manuals, Reports, Exhibits, and Forms**

Manuals, reports, exhibits, forms, and the LIDDA Handbook referenced in this Contract are located on the Health and Human Services Commission “(HHSC”) website and the LIDDA handbook. LIDDA shall use the reports and forms required by this Contract as they now exist and as they may now be revised. HHSC will notify LIDDA of revisions to the reports and forms. All manuals, reports, exhibits and forms are incorporated by reference into this Contract.

**1.2 Information Items**

Information items that may be referenced in this Contract are located at the [LIDDA Performance Contract](#) site. These items provide instructions regarding service delivery, reporting requirements and report preparation for this Contract. Nothing in the instructions to the Information items shall be interpreted as changing or superseding the terms of this Contract. All information items are incorporated by reference into this Contract.

**1.3 Uniform Grant Management Standards**

The Uniform Grant and Contract Management Act of 1981 (“UGMA”), Tex. Gov’t Code Chapter 783 and the Uniform Grant Management Standards (“UGMS”) referenced in this Contract are located on the Internet at <http://www.capitol.state.tx.us/> and <https://comptroller.texas.gov/purchasing/grant-management/> , respectively.

**ARTICLE 2 FUNDING AND EXPENDITURES**

**2.1 Budget**

LIDDA shall develop an annual budget, in the format of Report III-IDD, using the amounts indicated in Attachment B, Tables 1 and 2, (Allocation Schedule and Required Local Match Schedule, respectively), and earn and expend funds according to that budget.

**2.2 Local Match**

LIDDA shall provide and expend required local match, as defined in the Tex. Health and Safety Code §534.066, in the amount and percentage indicated on Attachment B, Required Local Match Schedule, for the applicable fiscal year.

## 2.3 Expenditures

- 2.3.1 LIDDA shall expend funds allocated by HHSC and required local match (the “**contract funds**”) solely for IDD services and administrative overhead authorized in section 2.4.2 of this Attachment.
- 2.3.2 LIDDA shall ensure no contract funds are used to supplement the rate-based payment the LIDDA receives to fund its cost as a provider of waiver programs or ICF/IID programs.
- 2.3.3 LIDDA shall comply in all respects as directed by HHSC with the Uniform Grant Management Standards (“**UGMS**”), promulgated pursuant to the Uniform Grant and Contract Management Act, Tex. Gov’t. Code, Chapter 783.
- 2.3.4 LIDDA shall obtain prior written approval from HHSC for selected items of cost as specified in UGMS Allowable Costs.
- 2.3.5 Upon termination or the end of each fiscal year of this Contract, LIDDA shall return to HHSC all funds allocated under this Contract that have not been encumbered for purposes authorized by this Contract. A transfer to the LIDDA's fund balance or reserves is not a purpose authorized by this Contract.
- 2.3.6 Any payments due under this Contract will be applied towards any debt that the LIDDA owes to the state of Texas.

## 2.4 Compliance

### 2.4.1 Program Income

- 2.4.1.1 LIDDA shall comply with the program income requirements in UGMS.
- 2.4.1.2 LIDDA shall report all sources of program income that meet the criteria defined in the Instructions for Report III-IDD.
- 2.4.1.3 LIDDA shall use program income to offset within the General Revenue (“**GR**”) strategies.
- 2.4.1.4 LIDDA shall use program income to offset expenditures, unless the unrestricted fund balance in the prior year is less than 60 calendar days of operations.
- 2.4.1.5 LIDDA shall restrict the program income used to build reserves to the 60 calendar days of Operations level to finance expenditures in the GR strategies.



## 2.4.2 Administrative Overhead

2.4.2.1 LIDDA shall maintain administrative overhead to perform the requirements of this Contract at a rate not to exceed 10% of the Contract funds. If LIDDA's administrative overhead expenses exceed 10%, LIDDA shall use earned income or other funds, other than contract funds, to pay for the excess.

## 2.4.3 Accounting Systems

2.4.3.1 LIDDA shall maintain accounting systems that comply with UGMS, Subpart C – Post-Award Requirements-Financial Administration. LIDDA must separately report actual expenditures and actual revenues attributable to Mental Health Adult, Mental Health Children, and IDD Programs.

2.4.3.2 LIDDA shall report expenditures by object of expense and method of finance in accordance with the strategies indicated in Report III-IDD. On a quarterly basis, LIDDA is required to reconcile accounting transactions from its general ledger to Report III-IDD by object of expense and method of finance.

## 2.4.4 Cost Accounting

LIDDA shall use cost accounting to provide a consistent methodology for determining the cost of services, which includes an analysis of provider productivity. Develop and implement management processes for the allocation and development of resources and the oversight of services, as required in sections 2.1 through 2.1.8 relating to Authority Functions (Attachment A-1, Statement of Work)

## 2.4.5 Productivity Benchmarks

LIDDA shall develop and maintain productivity benchmarks for each service based on the LIDDA's cost accounting methodology.

## 2.4.6 Audit

2.4.6.1 **Comprehensive Financial and Compliance Audit.** LIDDA shall obtain a comprehensive financial and compliance audit for the previous state fiscal year prepared in accordance with Tex. Health and Safety Code §534.068, 40 Tex. Admin. Code Chapter 1, Subchapter G, and HHSC's *Guidelines for Annual Financial and Compliance Audits of Community MHMR Centers* (21st Revision - February 2005) (the "Audit Guidelines"). HHSC's Audit Guidelines, Part 1 Annual Financial Audit, Section III. Engagement of External Auditors, Letter C. Selection of Auditor is deleted in its entirety and replaced with the following: **C. Selection of Auditor.** The Board of Trustees is required to obtain a single audit each year and must competitively procure single audit services at least once every six years.

2.4.6.2 **Single Audit Determination Form.** LIDDA shall submit online the Single Audit Determination Form as required by the Inspector General (“IG”), Health and Human Services Commission. If LIDDA fails to complete the Single Audit Determination Form within the 30 days after notification by IG to do so, LIDDA shall be subject to sanctions and remedies for non-compliance with this Contract.

2.4.6.3 **Access to Audit.** LIDDA shall authorize the Department of State Health Services (“DSHS”), HHSC, and their designees, as the state of Texas through any authorized representatives, to have unrestricted access, with reasonable notice, to all facilities, records, data, and other information, including service event data, under the control of LIDDA or its subcontractors as necessary to enable DSHS and HHSC, and their designees, as well as the state of Texas, to audit, monitor, and review the LIDDA’s compliance with the requirements of this Contract.

#### 2.4.7 Reports

2.4.7.1 **Enter Accurate and Complete Data.** LIDDA shall enter and submit accurate data:

A. Upon submission of this Contract in Report III-IDD:

- (1) the budget developed in accordance with Section 2.1 of this Attachment;
- (2) projected in-kind local match for this Contract for each fiscal year; and
- (3) year of the term of this Contract; and

B. In accordance with Attachment A-8 (IDD Submission Calendar):

- (1) All data necessary to calculate number of persons served, by type of service; and
- (2) All data to complete the quarterly Report III-IDD.

2.4.7.2 **Submit Accurate and Timely Information.** LIDDA shall submit accurate and timely information to HHSC including the information described in Attachment A-8 (IDD Submission Calendar), as follows:

A. A completed *Certification Regarding Lobbying* (Form D) and updates as necessary;

B. A copy of the LIDDA’s quarterly financial statements for the general fund account groups, including the balance sheet and income statement and general fund balance for LIDDA in total, as prepared for presentation to the LIDDA’s

governing body, and a certification of the accuracy of such statements, on the *Financial Statement Certification* (Form G). The originally signed Form G or a copy of the originally signed Form G is acceptable. Form G may be obtained upon request from the IDD Performance Unit Contract Manager;

- C. If requested by HHSC, monthly financial data in a format determined by HHSC;
- D. When necessary, a request to amend this Contract, on the *Contract Amendment Request* (Form C). Form C may be obtained up request from the IDD Performance Contracts Unit Contract Manager.
- E. Five copies of a comprehensive financial and compliance audit for the previous state fiscal year: three copies to HHSC (two hard copies and one electronic), and two copies to the Inspector General, Single Audit, Health and Human Services Commission (one hard copy mailed to Inspector General, Compliance/Audit, Mail Code 1326, P.O. Box 85200, Austin, TX 78708 and one electronic);
- F. A Corrective Action Plan (“CAP”) as required in the Audit Guidelines, 21st Revision. If the independent audit reports and management letter have no findings, then submit a letter stating that corrective action is not necessary;
- G. Supporting reports, data, work papers, and information, requested by HHSC; and
- H. As necessary, all other submissions described in Attachment A-8 (IDD Submission Calendar).

#### **2.4.7.3 Encounter Data.**

- (a) LIDDA shall submit timely monthly encounter data files for all IDD services, which has a rejection rate of less than 1% of the total number of records, in accordance to Attachment A-8 (IDD Submission Calendar).
- (b) LIDDA shall submit accurate and comprehensive monthly encounter data for all IDD services, including all required data fields and values, in accordance with the *IDD Service Grid Instructions, IDD Service Data Integrity, HHSC Service Grid* and *Field Definitions* as well as procedures and instructions established by HHSC.
- (c) LIDDA shall notify contract manager and submit in writing a System Migration Plan for any related client management software system transitions prior to implementation. Plan must clearly outline the timeline for completion and include assurances to ensure all obligations under this

section will be maintained. Required status updates may be established by HHSC.

**2.4.7.4 Critical Incident Data.** LIDDA shall report aggregate critical incident data via CARE Screen 686.

**2.4.7.5 CARE.** LIDDA shall use Client Assignment and Registration CARE to collect, record, and electronically submit information to HHSC, and to generate reports concerning performance under this Contract, in accordance with the *CARE Reference Manual*, *CARE User's Manual*, and *CARE Reporting Manual*.

## 2.5 Miscellaneous

2.5.1 LIDDA shall comply with requirements of the 2020 General Appropriations Act, Article IX, §17.02 of the 2020 General Appropriations Act (“GAA”). The following does not limit the Requirements:

- (a) GAA, Article IX, Parts 2 and 3, except there is no requirement for increased salaries for LIDDA employees. Upon request, HHSC will provide assistance in determining the appropriate classification. However, no contract funds may be used to fund salaries to the extent they exceed the maximum amount of the employee's classification on the salary schedules for the appropriate salary group;
- (b) Performance rewards GAA, Article IX, §6.13, relating to performance rewards and penalties;
- (c) GAA, Article IX, §7.01, relating to budgeting and reporting;
- (d) GAA, Article IX, §7.02, relating to annual reports and inventories;
- (e) Texas Government Code, Chapter 556, relating to political activities by certain public entities and individuals;
- (f) Texas Government Code, §2102.0091, relating to reports of periodic audits; and
- (g) Texas Government Code §§2113.012 and 2113.101, relating to alcoholic beverages.

### ARTICLE 3 REMEDIES AND SANCTIONS

3. **Overview.** Unless indicated otherwise in the Contract, including the Attachments, the remedies and sanctions set forth below shall apply if the LIDDA is non-compliant with a Contract requirement.

3.1 **Remedies.** HHSC may impose one or more of the remedies described below for non-compliance by the LIDDA with a Contract requirement:

3.1.1 Require the LIDDA to submit a Corrective Action Plan (“CAP”) to HHSC for approval. LIDDA must submit the CAP to the Contract Manager within 30 calendar days after receiving a notice of deficiency. The CAP must include the following:

- (a) The date by which the deficiency will be corrected. For a quality assurance review, the date may not exceed 90 calendar days after the day of the exit conference unless HHSC approves an additional amount of time prior to the expiration date. For any other deficiency, the date may not exceed 90 calendar days after the date of the notice of deficiency unless HHSC approves an additional amount of time prior to the expiration date. HHSC may designate the timeframe to correct the deficiency;
- (b) Identification of the party responsible for ensuring the deficiency is corrected;
- (c) The actions that have been or will be taken to correct the deficiency; and
- (d) A description of the systematic change and monitoring system implemented to ensure the deficiency does not re-occur, including the frequency of the monitoring and the party responsible for monitoring.

3.1.2 Impose special conditions or restrictions following identification of the LIDDA as High Risk, as described in section 3.7 of this Attachment.

3.1.3 Require LIDDA to retain a consultant or obtain technical training or assistance or managerial assistance.

3.1.4 Establish additional prior approvals for expenditure of contract funds.

3.1.5 Require submission of additional, more detailed financial or programmatic reports; and/or

3.1.6 Impose any other remedies provided by law.

3.2 **Mandatory Sanctions.** HHSC will impose mandatory sanctions as described below for noncompliance by the LIDDA with the Contract:

3.2.1 Recoup contract funds from the LIDDA, for failing to meet a quarterly Service Target identified in section 2.9.1. Attachment A-1 (Statement of Work), based on the statewide case rate. The statewide case rate is the ratio of statewide contract funds to total

statewide budgeted costs for each target, as determined by HHSC. Services not counted toward service target performance may be considered in determining the LIDDA's liability for recoupment.

- 3.2.2 Impose penalties for failing to meet a quarterly outcome target for a performance measure identified in Attachment A-2 (Performance Measures and Outcome Targets) in accordance with the penalty chart in section 3.4.1 of this Attachment D.
- 3.2.3 Impose penalties for failing to correct a finding on an annual quality assurance review within the timeframe stated in the CAP that was accepted to correct the finding. HHSC will consider the LIDDA's non-compliance from the previous fiscal years when imposing penalties in this section 3.2.3 in accordance with the penalty chart in section 3.4.1 of this Attachment.
- 3.2.4 Impose penalties for failing to implement a CAP within the timeframe stated in the CAP that was accepted to correct the LIDDA's failure to submit information in any item described in section 2.4.7.2 A-H and section 2.4.7.3 (a) of this Attachment in accordance with Attachment A-8 (IDD Submission Calendar). Penalties will be imposed in accordance with the penalty chart in section 3.4.1 of this Attachment; and
- 3.2.5 Impose penalties for failing to ensure the provision of a required IDD service quarterly as stipulated by section 2.9.2, Statement of Work (Attachment A-1). in accordance with the penalty chart in section 3.4.1 of this Attachment.

**3.3 Discretionary Sanctions.** HHSC may impose one or more of the discretionary sanctions described below for non-compliance with a Contract requirement:

- 3.3.1 Impose penalties for failing to comply with any contract requirement except those described in sections 3.2.1 - 3.2.5 of this Attachment, in accordance with the penalty chart in section 3.4.1 of this Attachment.
- 3.3.2 Impose penalties for failing to correct a finding within the timeframe stated in the CAP that was accepted to correct the finding, except for a finding from a quality assurance review as provided for in section 3.2.3 of this Attachment.
- 3.3.3 Temporarily withhold contract funds pending resolution of issues of non-compliance with contract requirements or indebtedness to the United States or to the state of Texas.
- 3.3.4 Permanently withhold allocated funds, or require LIDDA to return contract funds for:
  - (a) Unallowable, undocumented, inaccurate, or improper expenditures;
  - (b) Failure to comply with contract requirements; or
  - (c) Indebtedness to the United States or to the state of Texas.

3.3.5 Reduce the contract term.

3.3.6 Limit allocations to monthly distributions.

3.3.7 Require removal of any officer or employee of the LIDDA:

(a) Who has been convicted of the misuse of state or federal funds, fraud, or illegal acts that are a contraindication to continued performance of obligations under this Contract, as determined by HHSC, or

(b) Who has committed an egregious violation of policies and procedures of the terms of this Contract, as determined by HHSC;

3.3.8 Suspend all or part of this Contract. Suspension is, depending on the context, either: (1) the temporary withdrawal of the LIDDA's authority to obligate contract funds pending corrective action by the LIDDA or pending a decision to terminate or amend this Contract; or (2) an action taken to immediately exclude a person from participating in contract transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue. LIDDA's costs resulting from obligations incurred by the LIDDA during a suspension are not allowable unless expressly authorized by the notice of suspension.

3.3.9 Deny additional or future contracts or renewals with the LIDDA; and

3.3.10 Terminate this Contract, as described in section 3.9 of this Attachment.

### 3.4 Penalties

3.4.1 HHSC will use the following penalty chart for imposing penalties for mandatory sanctions described in sections 3.2.1-3.2.5 of this Attachment, and for the discretionary sanctions described in section 3.3.1 and 3.3.2 of this Attachment. Adjusted annual allocation means any adjustments made to the total annual allocation that are not one-time funding adjustments. A one-time funding adjustment is an amount that will not be calculated into the next fiscal year's allocation. The penalty chart will be applied separately to each of the eight applicable sanctions listed in Attachment A-2, Performance Measures and Outcomes.

<b>LIDDA Total Adjusted Annual Allocation</b>	<b>Failure to Correct</b>
Up to \$1.5 million	\$1,000.00
Not to exceed	\$6,000.00
Up to \$3 million	\$2,000.00



Not to exceed	\$12,000.00
Greater than \$3 million	\$3,000.00
Not to exceed	\$18,000.00

3.4.2 If LIDDA reaches the “Not to Exceed” amount, HHSC will require the LIDDA’s Board of Trustees to pass a resolution to obtain assistance as described in section 3.1.3 of this Attachment. HHSC retains the right to impose discretionary sanctions for additional violations.

3.4.3 Payments to LIDDA may be withheld to satisfy any recoupment or penalty imposed by HHSC.

3.4.4 Penalties may not be paid from contract funds or interest earned from Contract funds.

### **3.5 Procedures for Remedies and Sanctions**

3.5.1 The HHSC Contract Manager will formally notify the LIDDA in writing when a remedy or sanction is imposed, stating the nature of the remedy or sanction imposed. The LIDDA may file, within ten calendar days of receipt of the notice, a written appeal, which must demonstrate that the finds on which the remedy or sanction is based are either invalid or do not warrant the remedy or sanction. A properly filed appeal of the imposition of a remedy or sanction for failure to submit information in accordance with the Submission Calendar shall include written proof that the LIDDA submitted the information by the due date. If HHSC determines that a remedy or sanction is warranted, HHSC’s decision is final and the remedy or sanction shall be imposed.

3.5.2 The HHSC Contract Manager shall notify LIDDA in writing of HHSC's final determination.

3.5.3 If HHSC's final determination is to uphold the sanction, LIDDA shall remit to HHSC any monetary amounts assessed within 30 calendar days following the date specified in the notice of alleged non-compliance or HHSC's' final determination, whichever date is later, or interest will accrue on the unpaid amounts at the rate of 5% per annum.

### **3.6 Emergency Action**

3.6.1 In an emergency, HHSC will immediately impose a sanction by delivering written notice to LIDDA by any verifiable method when LIDDA’s act or omission is endangering or may endanger the life, health, welfare, or safety of an individual. Whether the LIDDA’s conduct or inaction is an emergency will be determined by HHSC on a case-by-case basis and will be based upon the nature of the non-compliance or conduct.



### **3.7 Identification of High Risk**

HHSC may identify LIDDA as High Risk in accordance with the UGMS, Grant Administration, Section III, Subpart B, paragraph .12, Office of Budget and Management Circular A-110, Subpart B, paragraph .14, and HHSC policies. HHSC will inform LIDDA of the identification as High Risk in writing. HHSC will state the effective date of the identification as High Risk, the nature of the issues that led to the identification as High Risk, and any special conditions or restrictions. The identification as High Risk remains in effect until HHSC has determined that LIDDA has taken corrective action sufficient to resolve the issues that led to the identification as High Risk

### **3.8 Management Team**

3.8.1 HHSC may appoint a manager or management team to manage and operate the LIDDA in accordance with Tex. Health and Safety Code §§534.038-534.040 if the HHSC executive commissioner or his or designee finds that LIDDA or an officer or employee of the LIDDA:

- (a) Intentionally, recklessly, or negligently failed to discharge the LIDDA's duties under this Contract;
- (b) Misused state or federal money;
- (c) Engaged in a fraudulent act, transaction, practice, or course of business;
- (d) Endangered or may endanger the life, health or safety of an individual;
- (e) Failed to keep fiscal records or maintain proper control over the LIDDA's assets as prescribed by Tex. Gov't. Code, Chapter 783 and this Contract;
- (f) Failed to respond to a deficiency in a review or audit;
- (g) Substantially failed to operate within the functions and purposes defined in the LIDDA's center plan; or
- (h) Otherwise substantially failed to comply with Tex. Health and Safety Code Chapter 534, Subchapter A or HHSC rules.

### **3.9 Contract Termination**

3.9.1 If HHSC determines LIDDA is unable or unwilling to fulfill any of its requirements under this Contract to ensure the provision of services or exercise adequate control over expenditures or assets, HHSC may initiate termination of this Contract in whole or in part, as follows:

- (a) HHSC shall provide 30 calendar days written notice of proposed termination to the LIDDA.

- (b) LIDDA may request a hearing to appeal the proposed termination;
- (c) If LIDDA files a timely request for a hearing, the hearing shall be conducted in accordance with 1 Tex. Admin. Code Chapter 357, Subchapter I, and 40 Tex. Admin. Code Chapter 91; and
- (d) In lieu of contract termination, HHSC may appoint a manager or management team to manage and operate the LIDDA in accordance with Tex. Health and Safety Code §§534.038-534.040.

3.9.2 HHSC and LIDDA may mutually agree to terminate this Contract, in whole or in part.

3.9.3 LIDDA may terminate this Contract in whole and without cause by giving 90 calendar days written notice to HHSC and submitting a transition plan that ensures there is no disruption in services to individuals.

#### **ARTICLE 4 REQUIREMENTS OF SYSTEM AGENCY**

##### **4.1 General Requirements**

- 4.1.1 HHSC will consider requests from the LIDDA to allow 90 calendar days to make significant changes to the LIDDA's information system required by a contract amendment that affects the LIDDA's information system.
- 4.1.2 HHSC will direct all requests and inquiries concerning this Contract to the LIDDA's Executive Director, or other individual designated as the Point of Contact under section 5.15 of this Attachment.
- 4.1.3 HHSC will designate an HHSC employee to oversee management of this Contract and to communicate official clarifications to this Contract.
- 4.1.4 HHSC shall make available technical assistance for services, functions, and other requirements of this Contract, upon written request from the LIDDA's Executive Director and approval by HHSC.
- 4.1.5 HHSC shall monitor the LIDDA for programmatic and financial compliance with this Contract. Monitoring activities may include, but are not limited, to on-site reviews and desk reviews of documents submitted by the LIDDA and data submitted electronically by the LIDDA. Reviews include elements related to quality assurance, priority population, Medicaid waiver authority requirements, and financial records and reports.
- 4.1.6 HHSC shall conduct exit conferences with designated representatives of the LIDDA prior to distributing findings by HHSC's monitors, auditors, or other staff conducting

audits or reviews; however, HHSC's is not required to conduct exit conferences in cases of investigations involving possible criminal activity.

4.1.7 HHSC shall maintain and make available formats necessary for the LIDDA to complete Report III-IDD and its instructions without amending this Contract.

## **4.2 Funding and Adjustments**

4.2.1 HHSC shall authorize the Texas Comptroller of Public Accounts to release funds to the LIDDA in accordance with the schedule in Attachment B, Table 1.

4.2.2 HHSC may adjust the LIDDA's reported service performance as necessary to correct inaccuracies.

4.2.3 HHSC may adjust the allocation of Contract funds that supports programs refinanced to Medicaid during the term of this Contract.

4.2.4 The annual General Revenue allocations include the state match for Medicaid Administrative Claiming ("MAC") in Attachment B, Table 2 of this Contract, and HHSC may adjust those amounts if the LIDDA does not fulfill the requirements of the LIDDA's contract for MAC.

4.2.5 The term of this Contract is for two fiscal years as defined in Section III of the Signature Document (Contract Period and Renewal). HHSC contract funds and service targets are appropriated by fiscal year for this Contract. The contract funds and service targets for the second fiscal year will be added to this Contract by a contract amendment prior to the beginning of the second fiscal year.

4.2.6 If the LIDDA is not able to expend the allocations within the fiscal year in a reasonable and allowable manner, as determined by HHSC, then HHSC may, at any time after consultation with the LIDDA, reduce the allocation for the fiscal year and reallocate to other LIDDAs, and may also reduce the allocation for future fiscal years.

4.2.7 Upon termination or the end of each fiscal year of this Contract, LIDDA shall return to HHSC all funds allocated under this Contract that have not been encumbered for purposes authorized by this Contract. A transfer to the LIDDA's fund balance or reserves is not a purpose authorized by this Contract.

4.2.8 Any payments due under this Contract will be applied towards any debt that the LIDDA owes to the state of Texas.

## **4.3 Non-Compliance by HHSC**

If HHSC fails to perform any responsibility set forth in this Contract LIDDA may send notice of such failure to HHSC. HHSC shall respond to the LIDDA in writing within 30 calendar days following receipt of the notice.

## **ARTICLE 5 MISCELLANEOUS PROVISIONS**

### **5.1 Compliance with Information Letters**

LIDDA must comply with System Agency information letters regarding LIDDAs.

### **5.2 Compliance with all Laws, Rules and Regulations**

LIDDA must comply, and require its subcontractors to comply, with all laws, rules and regulations, current and future, that are applicable to the LIDDA or its subcontractors, including but not limited to, the following:

#### **A. Rules.**

- (1) 40 Tex. Admin. Code 1-G (Community Centers);
- (2) 40 Tex. Admin. Code 2-A (Local Authority Notification and Appeal);
- (3) 40 Tex. Admin. Code 2-B (Contracts Management for Local Authorities);
- (4) 40 Tex. Admin. Code 2-C (Charges for Community Services);
- (5) 40 Tex. Admin. Code §2.151(1)(F) (Most Appropriate Available Treatment Alternative) and §2.152(e) (Special Considerations);
- (6) 40 Tex. Admin. Code 2-F (Continuity of Services – State Facilities);
- (7) 40 Tex. Admin. Code 2-G (Role and Responsibilities of Local Authority);
- (8) 40 Tex. Admin. Code 2-L (Service Coordination for Individuals with Mental Retardation);
- (9) 40 Tex. Admin. C 4-A (Protected Health Information);
- (10) 40 Tex. Admin. Code 4-C (Rights of Individuals with an Intellectual Disability);
- (11) 40 Tex. Admin. Code 4-D (Administrative Hearings under the Health and Safety Code, Title 7, Subtitle D);
- (12) 40 Tex. Admin. Code 4-K (Criminal History and Registry; Clearances);
- (13) 40 Tex. Admin. Code 4-L (Abuse, Neglect, and Exploitation in Local Authorities and Community Centers);
- (14) 40 Tex. Admin. Code 5-A (Prescribing of Psychoactive Medication);
- (15) 40 Tex. Admin. Code 5-C (Use and Maintenance of TDMHMR Drug Formulary);

- (16) 40 Tex. Admin. Code 5-D (Diagnostic Eligibility for Services and Supports — Intellectual Disability Priority Population and Related Conditions);
- (17) 40 Tex. Admin. Code 9-D (Home and Community-based Services (HCS) Program);
- (18) 40 Tex. Admin. Code 9-E (ICF/ID Programs — Contracting);
- (19) 40 Tex. Admin. Code 9-N (Texas Home Living (TxHmL) Program);
- (20) 40 Tex. Admin. Code 72-L (MOU-Capacity Assessment for Self-Care and Financial Management);
- (21) 26 Tex. Admin. Code Chapter 303 (Preadmission Screening and Resident Review (PASRR)); and
- (22) 1 Tex. Admin. Code Chapter 383 (Interstate Compact on Mental Health and Mental Retardation).

**B. Federal and State Laws**

- (1) Federal and state anti-discrimination laws as described in section 5.8 of this Attachment D;
- (2) 42 CFR Part 2 (concerning the confidentiality of alcohol and drug abuse patient records) and 45 CFR Parts 160 and 164 (concerning standards for protected health information (i.e., HIPAA regulations); and
- (3) Tex. Health and Safety Code Chapter 85 (concerning HIV/AIDS workplace and confidentiality guidelines).

**C. Hiring Outside State of Texas**

Hiring staff from outside the state of Texas requires a check of the employee misconduct registry or comparable database from the state in which the prospective employee resides. This check must be completed before hire and every year for five years post hire.

Any concerning/questionable information revealed during background checks (formal and informal) must be further investigated prior to hire.

**5.3 Changes to Executive Management**

LIDDA shall obtain affidavits executed by each board member on Form A, and by the executive director, on Form B, annually and when changes occur.

**5.4 Historically Underutilized Business**

LIDDA shall make a good faith effort to locate and consider a Historically Underutilized Business (HUB), as defined in Tex. Gov't. Code §2161.001(2), when subcontracting any portion of this Contract, and submit, in accordance with Attachment-A-8 (IDD Submission

Calendar), LIDDA's subcontracts report on the *Annual HUB Sub-Contracting Report* (Form F). Form F may be obtained upon request from the IDD Performance Unit Contract Manager.

### 5.5 Special Terms and Conditions

This Contract may incorporate one or more Attachments that are enumerated by the letter "H." If this Contract includes such an Attachment, LIDDA hereby agrees to comply with all requirements of that Attachment. To the extent a conflict exists between the Attachment(s) and any other provision of the Contract, LIDDA agrees that HHSC shall resolve the conflict.

### 5.6 Contract Management

LIDDA shall direct all inquiries and requests to HHSC concerning or required by this Contract, including requests for amendment, to the Contract Manager or other individual designated as a Point of Contact under section 5.12 of this Attachment, unless otherwise provided in this Contract.

### 5.7 E-Verify

By entering into this Contract, LIDDA certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's e-Verify system to determine the eligibility of:

- (a) All persons employed during the contract term to perform duties within Texas; and
- (b) All persons (including subcontractors) assigned by the contractor to perform Work pursuant to the Contract.

### 5.8 Civil Rights

A. LIDDA agrees to comply with state and federal anti-discrimination laws, including:

- (1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*);
- (2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
- (3) Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*);
- (4) Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
- (5) Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
- (6) Food and Nutrition Act of 2008 (7 U.S.C. §2011 *et seq.*); and
- (7) HHSC's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Agreement.

LIDDA agrees to comply with all amendments to these 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 service or other benefit provided by Federal or State funding, or otherwise be subjected to discrimination.

- B. LIDDA 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 individuals in its programs, benefits, or activities on the basis of national origin. 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. LIDDA agrees to take reasonable steps to provide services and information, both orally and in writing and electronically, 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.
- C. LIDDA agrees to post applicable civil rights posters in areas open to the public informing individuals of their civil rights and including contact information for the HHSC Civil Rights Office. The posters are available on the HHSC website at:  
[http://www.hhsc.state.tx.us/about\\_hhsc/civil-rights/brochures-posters.shtml](http://www.hhsc.state.tx.us/about_hhsc/civil-rights/brochures-posters.shtml)
- D. LIDDA agrees to comply with Executive Orders 13279 and 13559, and their 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. LIDDA must provide written notice to beneficiaries of their rights.
- E. Upon request, LIDDA will provide HHSC Civil Rights Office with copies of the LIDDA's civil rights policies and procedures.
- F. LIDDA must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Contract. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. This notice 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  
TTY Toll Free: (877) 432-7232  
Fax: (512) 438-5885.

## 5.9 Survival



The expiration or termination of this Contract shall not affect the rights and obligations of the parties accrued prior to the effective date of expiration or termination and such rights and obligations shall survive and remain enforceable.

#### **5.10 Independent Contractor**

In the performance of all services under this Contract, LIDDA shall be deemed to be and shall be an independent contractor of HHSC and, as such, shall not be entitled to any benefits applicable to employees of HHSC. LIDDA shall direct and be responsible for the performance of its employees, subcontractors, joint venture participants, and agents.

LIDDA are materially changed or a significant financial burden is placed on the LIDDA, the parties may negotiate in good faith to amend this Contract.

#### **5.11 References**

Captions contained in this Contract are for reference purposes only and do not affect the meaning of this Contract. Unless otherwise noted, all references in this Contract to “days” mean calendar days. A day that is referenced as a “business” day means any day other than a Saturday, a Sunday or a day in which HHSC offices located at 701 W. 51st Street, Austin, Texas, are authorized or obligated by law or executive order to be closed.

#### **5.12 Contract Managers**

HHSC shall designate a Contract Manager to serve as HHSC's single point of contact for all communications between HHSC's and the LIDDA concerning this Contract. Notwithstanding this provision, HHSC may designate an individual other than the Contract Manager to serve as the single point of contact by notifying the LIDDA in writing of such other designation.

#### **5.13 Transfer of Responsibilities**

Upon expiration or termination of this Contract or an element of this Contract, LIDDA and HHSC shall cooperate to the fullest extent possible to ensure the orderly and safe transfer of responsibilities under this Contract to HHSC or other entity designated by HHSC.

#### **5.14 Points of Contact**

LIDDA shall designate its executive director to serve as the LIDDA's single point of contact for all communications between LIDDA and HHSC concerning this Contract. Notwithstanding this provision, LIDDA may designate an individual other than the executive director to serve as the single point of contact by notifying HHSC in writing of such other designation.

#### **5.15 Buy Texas**



LIDDA shall purchase products and materials produced in the state of Texas when the products and materials are available at a price and delivery comparable to products and materials produced outside of Texas, as required by Texas Government Code §2155.4441.

#### **5.16 Contract Instructions**

Instructions clarifying the preparation requirements of this Contract have been developed by HHSC. However, nothing in such instructions shall be interpreted as changing or superseding the terms of this Contract.

#### **5.18 Exchange of Protected Health Information**

Except as prohibited by other law, LIDDA and HHSC shall exchange protected health information without consent of individuals in accordance with 45 CFR §164.504(e)(3)(i)(B), Tex. Health and Safety Code §533.009 and 40 Tex. Admin. Code Chapter 4, Subchapter A. LIDDA shall disclose information described in Tex. Health and Safety Code §614.017(a)(2) relating to special needs offenders, to an agency described in Tex. Health and Safety Code §614.017(c) upon request of that agency, unless LIDDA documents that the information is not allowed to be disclosed under 45 CFR Part 164.

#### **5.19 Books and Records**

- 5.19.1 LIDDA will keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to HHSC, 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 Contract and all state and federal rules, regulations, and statutes.
- 5.19.2 Except for the record retention requirements set forth in *the HCS and TxHmL Interest List Manual*, LIDDA shall maintain legible copies of this Contract and all related documents for a minimum of seven (7) years after the termination of the contract period or seven (7) years after the completion of any litigation or dispute involving the Contract, whichever is later.

All related documents include:

- (a) Internal monitoring records of the quality and appropriateness of Medicaid program participation and compliance;
- (b) All accounting and other financial records;
- (c) and personal property leases;
- (d) Policies, manuals, and standard operating procedures;
- (e) Provider credentialing records;

- (f) Records relating to insurance policies;
- (g) Employment records;
- (h) Licenses and certifications;
- (i) Records required by HHSC;
- (j) Subcontracts;
- (k) Records relating to matters in litigation, and
- (l) Claims payment histories.

5.19.3 LIDDA shall collect, record, maintain, and retain information in accordance with Attachment A-5 (HCS and TxHmL Interest Lists Maintenance) and the *HCS and TxHmL Interest List Manual* regarding individuals who have requested HCS or TxHmL services.

#### **5.20 Web Link References**

The referenced web links in this Contract are subject to change without notice. HHSC will notify LIDDA of changes to web addresses when possible.

#### **5.21 Fraud, Waste and Abuse**

LIDDA will promptly notify the Inspector General, Health and Human Services Commission of any suspected fraud, abuse or waste under state or federal law.

#### **5.22 Electronic Signature**

LIDDA agrees that if it permits the use of electronic signatures to document any aspect of the provision of services under this Contract, LIDDA will maintain appropriate safeguards to assure the authenticity of the electronic records and signatures. LIDDA agrees that if it permits an electronic signature to be used on a document, LIDDA cannot challenge the authenticity or admissibility of the signature or the document in any audit, review, hearing, or other proceeding conducted by HHSC, the State Auditor's Office, a federal funding source, or a federal or state court.

#### **5.23 Emergency Plan**

LIDDA shall develop and maintain an Emergency Plan as prescribed in section 2.10.6 Attachment A-1, Statement of Work.

#### **5.24 Disposition of Equipment and Controlled Assets**

LIDDA shall comply with the Health and Human Services Contract Council's policy regarding definition and disposition of equipment and controlled assets.

### 5.25 Encryption Software

LIDDA shall use HHSC current encryption software when communicating confidential information with HHSC. HHSC will provide notice to the LIDDA if it changes its encryption software.

### 5.26 Eligibility to Contract

LIDDA shall certify by execution of this Contract that LIDDA:

- (a) Is not currently held in abeyance or barred from the award of a federal or state contract, and that LIDDA will provide immediate written notification to HHSC if the LIDDA becomes held in abeyance or barred from the award of a federal or state contract during the term of this Contract; and
- (b) Under section 2261.053, Tex. Gov't. Code, the contractor (LIDDA) certifies that the individual or business entity named in this Contract is not ineligible to receive the to receive the specified contract and acknowledges that this contract may be terminated, and payment withheld if this certification is inaccurate.

### 5.27 Confidentiality

By signing the Signature Document, LIDDA agrees to comply with all terms, conditions and requirements of Attachment E, the Data Use Agreement ("DUA"). The DUA defined terms "HHS," "**Base Contract**" and "**Contractor**," refer to HHSC, this Performance Contract, and LIDDA, respectively.

LIDDA and any of its subcontractors associated with this contract, will ensure the confidentiality of all confidential and personal information of all individuals served under this contract in accordance with all applicable federal and state laws, rules and regulations and the terms and conditions of this contract.

**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.

<p>SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL</p> <p>DocuSigned by: Mission to Grants.gov</p> <p><i>Bill Kelly</i></p> <p>413A7FE58582474...</p>	<p>TITLE</p> <p>Executive Director</p>
<p>APPLICANT ORGANIZATION</p> <p>MHMR Authority of Brazos valley</p>	<p>DATE SUBMITTED</p> <p>August 5, 2020</p> <p>Completed on submission to Grants.gov</p>



## ATTACHMENT F-2

### 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> MHMR Authority of Brazos Valley	
<b>* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE</b>	
Prefix: <input type="text"/>	* First Name: <input type="text" value="Bill"/> Middle Name: <input type="text"/>
*Last Name: <input type="text" value="Kelly"/>	Suffix: <input type="text"/>
*Title: <input type="text" value="Executive Director"/>	
<b>* SIGNATURE:</b> <input type="text" value="DocuSigned by: Bill Kelly"/> 413A7FE58582474...	<b>* DATE:</b> <input type="text" value="August 5, 2020"/>

## ATTACHMENT H-4 COMMUNITY LIVING OPTIONS INFORMATION PROCESS SPECIAL TERMS AND CONDITIONS

Local Intellectual and Developmental Disability Authority Name: MHMR Authority of Brazos Valley (“LIDDA”)

1.0 **Community living options information process (CLOIP).** In accordance with 40 TAC, §2.274 and the LIDDA handbook, Community Living Options Information Process (“CLOIP”) activities are performed by the contract LIDDA to provide information and education about community living options to a person who is 22 years of age or older residing in a state supported living center (“SSLC”) or to the person’s legally authorized representatives (“LAR”).

### 1.1 **Standardized Information Materials**

- 1) Contract LIDDAs will provide and explain the Health and Human Services Commission (“HHSC”) [Explanation of IDD Services and Supports](#) publication and the [Long Term Services and Supports](#) publication to all individuals or legally authorized representatives (“LARs”).
- 2) In addition to the required material in the preceding paragraph, Contract LIDDAs will provide and explain other informational and educational materials developed and approved by HHSC that provide a more complete explanation of specific types of services. Educational and informational materials will be user-friendly and in a format that provides for easy interpretation and can include written, audio, Power Point, CD or DVD formats. The style and substance of the materials are crucial to education and awareness. Communication devices and techniques (including the use of sign language) will be used, as appropriate, to facilitate the involvement of the individual and LAR.
- 3) HHSC will provide coordination, support and funding for these standardized materials.
- 4) HHSC will assure the development of curriculum and the provision of training for Contract LIDDA and SSLC staff regarding the CLOIP, the developed materials and their use.
- 5) Designated LIDDAs, upon request by the Contract LIDDA, will provide information about specific programs and services available where the individual or their LAR, on behalf of the individual, is interested in living. This may include, but is not limited to, specific information about services, supports and providers in the local service area.

Designated LIDDAs may provide the information directly to the individual and LAR or to the Contract LIDDA.

- 6) In addition to materials described above, individuals and/or LAR will be offered the opportunity to visit living options available in the community and to visit with individuals/peers using these options with their prior consent.