

Medicaid Provider Agreement for Nursing Facility Services

Maverick County Hospital District

Legal Name of Entity (the "Provider")

3406 Bob Rogers Dr., Suite 230 Eagle Pass, Texas 78852

Entity's Full Address

The Lodge at Bear Creek

Provider's Facility Name (the "Facility")

3729 Ira E. Woods Ave Grapevine, Texas 76051

Provider's Facility Full Address

001032330

(Provider No.)

106495

(Facility No.)

5710

(Cross Reference No.)

I.

The Health and Human Services Commission ("HHSC") is the Texas single state agency for Medicaid services provided under this provider agreement (the "Agreement"). HHSC administers the Long-Term Care Program under the Texas Medical Assistance Program in accordance with Title XIX of the Social Security Act and Texas Human Resources Code, Title 2, Chapter 32.

HHSC and Provider enter into this Agreement for the initial term of four (4) years commencing on 06/01/2022 .
(Effective Date)

Thereafter, the term of this Agreement shall automatically renew for successive four (4) year terms, subject to the availability of state appropriations or federal funding, unless terminated as provided for in this Contract..

II.

The Provider agrees:

In General

- A. To provide nursing facility services and activities as defined in Title XIX of the Social Security Act and Title 40, Texas Administrative Code, Part 1, Chapter 19, to residents that HHSC determines eligible for such services.
- B. To comply with all applicable federal and Texas statutes and rules, including the following:
 1. Title 42, Code of Federal Regulations, Chapter IV;
 2. Texas Human Resources Code, Title 2, Chapter 32;
 3. Texas Human Resources Code, Title 6, Chapter 102;
 4. Texas Health and Safety Code, Title 4, Chapters 242, 250, 253 and 260A;
 5. Title 40, Texas Administrative Code, Part 1, Chapter 17;
 6. Title 40, Texas Administrative Code, Part 1, Chapter 19; and
 7. Title 1, Texas Administrative Code, Part 15, Chapter 355.
- C. To comply with the following documents promulgated by HHSC:
 1. applicable provider manuals or handbooks;
 2. applicable billing guidelines; and
 3. applicable provider communications, including provider letters, information letters and policy clarifications.
- D. To ensure the confidentiality of individual resident records and other information relating to the resident in accordance with applicable federal and Texas laws and rules. This provision shall not be construed as limiting HHSC's access to resident records or other information relating to residents.
- E. To comply with the Title XIX Texas State Plan for all services provided under this Agreement. Further, Provider by signing this Agreement certifies that it is in compliance with all applicable federal laws, rules, or regulations, as they may pertain to this Agreement.

Updating HHSC

- A. To disclose information on ownership and control, information related to business transactions, and information on persons convicted of crimes in accordance with 42 CFR, Part 455, Subpart B, and to submit updated ownership and control disclosures within 10 business days of a change in ownership or control interest and at any time within 35 days of a written request by HHSC or the U.S. Department of Health and Human Services ("HHS").
- B. To keep its application for participation in the Medicaid Nursing Facility program current by informing HHSC in writing of:
 - 1. a change of ownership or a change in the Provider's legal entity that directly or indirectly changes the legal entity responsible for fulfilling this Agreement at least 30 calendar days prior to the date of the change;
 - 2. a change in the name of the person authorized to negotiate, execute, amend or terminate this Agreement on behalf of the Provider within 30 calendar days of the date of the change; and
 - 3. a change in the name, telephone number, fax number or email address of the Provider's contact person or the name of the Provider, if the change is not a change in the Provider's entity, within 14 calendar days of the date of the change.
- C. To keep its provider certifications current by informing HHSC in writing immediately if the Provider learns that any of the certifications were erroneous when submitted and within five business days of a change that causes the certifications to become erroneous by reason of changed circumstances.
- D. To notify the HHSC in writing:
 - 1. if the Provider files for bankruptcy within 14 calendar days of the filing date;
 - 2. if a person with ownership or control interest, a managing employee, or an agent, as those terms are defined in 42 CFR §455.101, is convicted of an offense listed in 40 Texas Administrative Code §99.2 within 14 calendar days of the date of conviction;
 - 3. immediately if the Provider is excluded from participation in Medicare, Medicaid, or any federal or state health care program in accordance with §1128(a) or (b) of the Social Security Act (42 USC §1320a-7); and
 - 4. immediately if the Provider is notified by HHSC that its enrollment application has been denied or abated.

Claims

- A. To accept HHSC's reimbursement rates as payment in full for the services specified in this Agreement to the persons for whom a payment is received, and to make no additional charge to the individual, any member of his or her family or to any other source for any supplementation for such services, unless specifically allowed by HHSC rules.
- B. To submit claims for payment in accordance with HHSC Claims Administrator billing guidelines applicable to the services under the Agreement.
- C. That HHSC may make proper adjustments to the Provider's payments from month to month to compensate for prior overpayments, underpayments or payments not made in accordance with the requirements of this Agreement. The Provider further agrees HHSC may withhold Provider's payments, in whole or in part, because of differences from whatever cause until such differences are resolved.
- D. That the Provider is responsible for payment of any valid audit exceptions found by HHSC, HHS, or the Texas Attorney General's Medicaid Fraud Control Unit ("OAG-MFCU").
- E. That in accordance with §403.0551, Texas Government Code, and unless otherwise prohibited by any other law, any payments due to the Provider under this Agreement will be first applied toward any debt or back taxes the Provider owes the state of Texas. Payments will be so applied until such debts and back taxes are paid in full.

Provisions governing staff and subcontractors

- A. To require any subcontractor to execute documents that binds the subcontractor to comply with the provisions of this Agreement. Subcontractor means an individual or entity to which the Provider has contracted with or delegated some of its management functions or responsibilities of providing all or a part of the services required of the Provider under this Agreement.
- B. That it is responsible for the behavior of its staff and subcontractors to ensure a violence-free contractual relationship. The Provider understands that any remarks, gestures or actions toward HHSC employees, volunteers or clients that carry an implied threat of any kind, even if intended to be in jest, will be taken seriously and may lead to corrective action, up to and including terminating this Agreement.
- C. To comply with the requirements of the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for an individual hired on or after Nov. 6, 1986, who will perform any labor or services under this Agreement.
- D. To certify and ensure 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:
 - 1. all persons employed during the Contract term to perform duties within Texas; and
 - 2. all persons (including contractors).

E. That representatives of HHSC, OAG-MFCU, and HHS may conduct interviews of Provider's personnel, subcontractors and their personnel, witnesses, and clients without a Provider's representative present unless the person interviewed voluntarily requests that the representative be present. The Provider must not coerce its personnel, subcontractors and their personnel, witnesses, or clients to accept representation by the Provider, and the Provider agrees that no retaliation will occur to a person who denies the Provider's offer of representation. Nothing in the Agreement limits a person's right to counsel of his or her choice. Requests for interviews are to be complied with in the form and the manner requested. The Provider must ensure by contract or other means that its personnel and subcontractors cooperate fully in any investigation conducted by representatives of HHSC, OAG-MFCU and HHS.

Recordkeeping

- A. To maintain its accounting records in accordance with generally accepted accounting principles ("GAAP"). GAAP are established by the Financial Accounting Standards Board ("FASB").
- B. Unless a longer period is required by applicable law, the Provider will retain legible copies of the Agreement and all related documents, including but not limited to medical records, for a minimum of the longest of the following three periods: (i) 7 years after the Agreement is completed, expires, or is otherwise terminated; (ii) 7 years after all issues that arise from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the Agreement or documents are resolved, or (iii) the date on which the individual for whom the records relate becomes 21 years of age.
- C. That if this Agreement is terminated or the Provider terminates business operations, the Provider must ensure:
1. records are stored and accessible;
 2. someone is responsible for adequately maintaining the records in accordance with the records retention requirements set forth in paragraph B above;
 3. HHSC is informed in writing of how and where the records will be maintained and who may be contacted in order to access the records; and
 4. if any information in item 3 above changes, the Provider will notify HHSC in writing within 10 business days of the date of the change.

Civil Rights

- A. The Provider agrees to comply with state and federal anti-discrimination laws, including without limitation:
1. Title VI of the Civil Rights Act of 1964 (42 USC §2000d et seq.);
 2. Section 504 of the Rehabilitation Act of 1973 (29 USC §794);
 3. Americans with Disabilities Act of 1990 (42 USC §12101 et seq.);
 4. Age Discrimination Act of 1975 (42 USC §§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. System Agency administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Agreement.

The Provider agrees to comply with all amendments to the above-referenced laws, and all related regulations. 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 subjected to discrimination.

The Provider further agrees to:

1. 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, which prohibit a Provider from adopting and implementing policies and procedures that exclude or limit clients' participation in programs and benefits, on the basis of national origin. Civil rights laws require Providers to provide alternative methods for ensuring access to services for applicants and recipients who are not fluent in English. Provider agrees to take reasonable steps to provide services and information, both orally and in writing and electronically, in appropriate languages other than English;
2. post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the System Agency's Civil Rights Office. The posters are available on the HHSC website at: <http://hhscx.hhsc.texas.gov/system-support-services/civil-rights/publications>;
3. 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 the U.S. Department of Agriculture ("USDA") or HHS shall not discriminate against a program beneficiary on the basis of religion or religious belief. Provider must provide written notice to beneficiaries of their rights;
4. upon request, provide the System Agency's Civil Rights Office with copies of all of the Provider's civil rights policies and procedures; and

5. notify System Agency's Civil Rights Office of any civil rights complaints received relating to its performance under this Agreement. This notice must be delivered no more than 10 calendar days after receipt of a complaint. This notice must be directed to:

Civil Rights Office
Health and Human Services Commission
701 W. 51st Street Mail Code W206
Austin, TX 78751
Telephone Toll Free: 1-888-388-6332
Telephone: 512-438-4313
TTY Toll Free: 877-432-7232
Fax: 512-438-5885

- B. That if the Provider is a charitable or faith-based Provider under this Contract, it must apprise all residents of the following: "Neither the System Agency's selection of a charitable or faith-based Provider nor the expenditure of funds under this Contract is an endorsement of the Provider's charitable or religious character, practices or expressions. No provider or contractor may discriminate against you on the basis of religion, a religious belief or your refusal to actively participate in a religious practice. If you object to a particular contractor because of its religious character, you may request a different contractor. If you believe that you have been discriminated against, please discuss the complaint with your contractor or notify your appropriate case manager."

Fraud Prevention

- A. To screen its employees and contractors to determine if they have been excluded from Medicare, Medicaid, or any federal or state health care program. The Provider agrees to search monthly the HHS-Office of Inspector General ("OIG") and HHSC-OIG List of Excluded Individuals/Entities ("LEIE") websites to capture exclusions and reinstatements that have occurred since the last search and to immediately report to HHSC-OIG any exclusion information the Provider discovers. Exclusionary searches for prospective employees and contractors shall be performed prior to employment or contracting.
- B. That no Medicaid payments can be made for any items or services directed or prescribed by a physician or other authorized person who is excluded from Medicare, Medicaid, or any federal or state health care program when the individual or entity furnishing the items or services either knew or should have known of the exclusion. This prohibition applies even when the Medicaid payment itself is made to another provider, practitioner or supplier who is not excluded.
- C. That this Agreement is subject to all state and federal laws and regulations relating to fraud and abuse in health care and the Medicaid program. As required by 42 CFR §431.107, the Provider agrees to keep any and all records necessary to disclose the extent of services the Provider furnishes to individuals in the Medicaid program and any information relating to payments claimed by the Provider for furnishing Medicaid services. On request, the Provider also agrees to furnish HHSC, OAG-MFCU, or HHS any information maintained under 42 CFR §431.107(b). The Provider will furnish copies of this information free of charge.

Sanctions

- A. That HHSC may apply, at its discretion, sanctions if the Provider fails to comply with any provision of the Agreement, including:
 1. recouping overpayments;
 2. suspending the Provider's payments; and
 3. initiating termination of the Agreement.
- B. That HHSC, pursuant to Texas Human Resources Code, §32.021, may assess monetary penalties against the Provider for violations of this Agreement as required by 42 USC. §1396r(h).
- C. That this Agreement is dependent on the Facility maintaining a certification of compliance with Medicaid nursing facility standards and program requirements. The Provider acknowledges this Agreement automatically terminates on the date the Facility is certified as being out of compliance and that the Provider is not entitled to payment for services provided to Medicaid residents during the time the Facility does not have a certification of compliance with Medicaid standards and program requirements.
- D. That payments to the Provider under this Agreement may be withheld during the pendency of a hearing on the termination of this Agreement or Medicaid certification of noncompliance until a final decision is issued and all appeals are exhausted.
- E. That in accordance with 42 CFR §455.23, HHSC shall suspend all Medicaid payments to the Provider upon notification by HHSC-OIG that a credible allegation of fraud under the Medicaid program is pending against the Provider, unless HHSC has good cause not to suspend the payments or to suspend the payments only in part.

Privacy, Security and Breach Notification

- A. To comply with the requirements set forth in this Agreement relating to Texas Health and Human Services System ("HHS System") Confidential Information.
- B. "HHS System Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to the Provider electronically or through any other means that consists of or includes any or all of the following:
1. Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information;
 2. Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;
 3. Federal Tax Information;
 4. Personally Identifiable Information;
 5. Social Security Administration Data, including, without limitation, Medicaid information;
 6. All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.
- C. Any HHS System Confidential Information received by the Provider under this Agreement may be disclosed only in accordance with applicable law. By signing this Agreement, the Provider certifies that the Provider is, and intends to remain for the term of this Agreement, in compliance with all applicable state and federal laws and regulations with respect to privacy, security, and breach notification, including without limitation the following:
1. The relevant portions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. Chapter 7, Subchapter XI, Part C;
 2. 42 CFR Part 2 and 45 CFR Parts 160 and 164;
 3. The relevant portions of The Social Security Act, 42 U.S.C. Chapter 7;
 4. The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a;
 5. Internal Revenue Code, Title 26 of the United States Code including IRS Publication 1075;
 6. OMB Memorandum 07-16;
 7. Texas Business and Commerce Code Chapter 521;
 8. Texas Health and Safety Code, Section 81.006 and Chapters 181 and 611;
 9. Texas Human Resources Code § 12.003;
 10. Texas Government Code, Chapter 552, as applicable;
 11. Title 3 of the Texas Occupations Code, as applicable;
 12. Constitutional and Common Law Privacy; and
 13. Any other applicable law controlling the release of information created or obtained in the course of providing the services described in this Agreement.

The provider further certifies that the Provider will comply with all amending regulations, and relating to those laws, to the extent applicable.

- D. Provider will ensure that any subcontractor of Provider who has access to HHS System Confidential Information will sign a HIPAA-compliant Business Associate Agreement with Provider, and Provider will submit a copy of that Business Associate Agreement to HHSC upon request.

Miscellaneous Requirements

- A. To comply with Texas Health and Safety Code, §85.113 and §85.115 concerning workplace and confidentiality guidelines for persons with AIDS or HIV.
- B. To comply with applicable provisions of the Clean Air Act (42 USC §7401-7671q) and the Federal Water Pollution Control Act (33 USC §1251-1387), if funding for the Agreement exceeds \$100,000.
- C. That in accordance with §2155.4441, Texas Government Code, the Provider shall, in performing any service under this Agreement, purchase products and materials produced in Texas when they are available at a comparable price and in a comparable period of time to products and materials produced outside of Texas.
- D. To make a good faith effort to utilize historically underutilized businesses ("HUBs") when subcontracting. Some methods for locating HUBs include using searchable HUB databases at the Texas Comptroller of Public Accounts' website, using websites or other minority/women directory listings maintained by local chambers of commerce, advertising subcontract work in local minority publications, or contacting HHSC for assistance in locating available HUBs.
- E. That the Provider must not refer to the HHSC or to the State of Texas in any media release, public announcement or public disclosure relating to this Agreement, including any promotional or marketing materials, in a manner that suggests HHSC or the State of Texas endorses, recommends, sponsors or is collaborating with the Provider.

III.

HHSC agrees:

- A. To pay the Provider for services provided under this Agreement in amounts and under conditions determined by HHSC as defined in this Agreement, the applicable provider manual, handbook, policy letter, or program rules and standards and in accordance with applicable laws and regulations for all eligible persons receiving such services under the Medical Assistance Program.
- B. To pay the Provider within time limits set by HHSC and in accordance with applicable laws and regulations after a proper claim for payment is submitted and approved for payment in accordance with HHSC Claims Administrator billing guidelines.
- C. To adjust payments to the Provider to compensate for prior overpayment or underpayment.
- D. To give the Provider reasonable notice of any impending change in its status as a participating provider, except that nothing in this section shall be construed to deny HHSC the right, for failure to comply with this Agreement or regulations published in the *Texas Register*, to terminate this Agreement, suspend payments or take any other legal remedy available to HHSC.
- E. To provide a hearing, in accordance with Texas Administrative Code, Title 1, Part 15, Chapter 357, Subchapter I, to the Provider in the event HHSC imposes an adverse action on the Provider under this Agreement.
- F. To make available to the Provider the applicable provider manual and any changes to that manual that change the requirements for participation.
- G. That a religious organization that contracts with HHSC does not by contracting with HHSC lose the exemption provided under Section 702 of the Civil Rights Act [42 USC §2000E-1(a)] regarding employment practices.

A religious or charitable organization is eligible to be a provider on the same basis as any other private organization. The Provider retains its independence from state and local governments, including the Provider's control over the definition, development, practice and expression of its charitable or religious beliefs. Except as provided by federal law, HHSC shall not interpret this Agreement to require a charitable or religious organization to alter its form of internal governance or remove religious art, icons, scripture or other symbols. Furthermore, if a religious or charitable organization segregates the government funds provided under this Agreement, then only the financial assistance provided by these funds will be subject to audit. However, neither HHSC's selection of a charitable or faith-based nursing facility provider nor the expenditure of funds under this Agreement is an endorsement of the provider's charitable or religious character, practices or expression. The purpose of this Agreement is the provision of nursing facility services; no state expenditures have as their objective the funding of sectarian worship, instruction or proselytization, and no state funds shall be expended for these purposes.

IV.

HHSC and Provider agree:

- A. That in the event any provision of this Agreement becomes unenforceable or void, all other provisions of this Agreement will remain in effect.
- B. That the Provider may not transfer or assign this Agreement without the express prior written approval of HHSC.
- C. That this Agreement may be assigned to HHSC's successor state agency or agencies.
- D. That HHSC may amend this Agreement by written notice to the Provider. HHSC reserves the right to amend this Agreement through execution of a unilateral amendment signed by an HHSC person with delegated signature authority and provided to the Provider under the following circumstances:
 - 1. to correct an obvious clerical error in the Agreement;
 - 2. to incorporate new or revised federal or state statutes, rules or policies;
 - 3. to comply with a court order or judgment; and
 - 4. to change the name of the Provider in order to reflect the Provider's name as recorded by the Texas Secretary of State.
- E. That nothing in this Agreement or any conduct by a representative of HHSC relating to this Agreement shall be construed as a waiver of the state's sovereign immunity to suit.
- F. That neither party to this Agreement waives its right to enforce a right under this Agreement by failing to enforce or delaying the enforcement of any other right under this Agreement.
- G. That the Provider is an independent contractor and not an employee of HHSC for any purpose. The Provider and HHSC agree that:

1. HHSC will not withhold or pay on behalf of the Provider any sums for income tax, unemployment insurance, Social Security or any other withholding, or make available to the Provider any of the benefits, including workers' compensation insurance coverage and health and retirement benefits, afforded to HHSC employees: and
2. the Provider must indemnify HHSC from any liability, including attorneys' fees and legal expenses, incurred by HHSC with respect to claims that HHSC should have been withholding or making payments on behalf of the Provider or providing benefits to the Provider's employees.

H That nothing in this Agreement is intended to create a joint venture, a partnership or a principal-agent relationship.

I That the Provider assigns to HHSC all claims for overcharges associated with this Agreement arising under the anti-trust laws of the United States, 15 USC §§1-38, or the anti-trust laws of the state of Texas, Tex. Bus. & Com. Code §§15.01-40.

J. That in compliance with §2262.003, Texas Government Code:

1. 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;
2. 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; and
3. 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.

K That this Agreement shall continue subject to the availability of appropriated funds or until the federal or state governments or both cease to participate in the program.

L That any breach or violation of any of the provisions of this Agreement or state or federal regulations shall make this entire Agreement, at HHSC's option, subject to termination.

M That the venue for any lawsuit between HHSC and the Provider shall be Travis County, Texas.

N That this Agreement may be terminated by:

1. mutual agreement of HHSC and the Provider;
2. either party to this Agreement by giving 60 calendar days written notice to the other;
3. HHSC for reasons set forth in federal or state laws or rules, the terms of this Agreement, or the applicable provider manual, handbook or program standards;
4. HHSC if a certification made by the Provider in this Agreement is inaccurate or becomes inaccurate; or
5. HHSC for good cause.

V.

Incorporation by Reference

The following attachments to this Agreement are hereby attached and incorporated by reference:

1. Attachment A - Form 5871/5871-S, Disclosure of Ownership and Control Statement, whichever is applicable to this Agreement
2. Attachment B - Contract Affirmations

VI.

This Agreement is executed by the parties in the capacities stated below.

Health and Human Services Commission

Maverick County Hospital District
dba The Lodge at Bear Creek

DocuSigned by:

Michael Blood

08/22/2022

Signature

Date

[Handwritten Signature]

05/01/2022

Signature - Provider Representative

Date

Alma Martinez

Michael Blood

Name (print or type)

Name of Provider Representative (print or type)

Interim Deputy Associate Commissioner, CAPM

Title (print or type)

CEO

Title of Provider Representative (print or type)

HEALTH AND HUMAN SERVICES
Contract Number HHS000006100588

Attachment **CONTRACT AFFIRMATIONS**

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

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

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

2. Complete and Accurate Information

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

3. Public Information Act

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

4. Contracting Information Requirements

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

5. Assignment

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

6. Terms and Conditions

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

7. HHS Right to Use

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

8. Release from Liability

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

9. Dealings with Public Servants

Contractor has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract or any related Solicitation, or related Solicitation Response.

10. Financial Participation Prohibited

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

11. Prior Disaster Relief Contract Violation

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

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

12. Child Support Obligation

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

13. Suspension and Debarment

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

14. Excluded Parties

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

15. Foreign Terrorist Organizations

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

16. Executive Head of a State Agency

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

17. Human Trafficking Prohibition

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

18. Franchise Tax Status

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

19. Debts and Delinquencies

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

20. Lobbying Prohibition

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

21. Buy Texas

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

22. Disaster Recovery Plan

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

23. Computer Equipment Recycling Program

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

24. Television Equipment Recycling Program

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

25. Cybersecurity Training

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

26. Restricted Employment for Certain State Personnel

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

27. No Conflicts of Interest

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

28. Fraud, Waste, and Abuse

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

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

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

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

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

29. Antitrust

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

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

30. Legal and Regulatory Actions

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

31. No Felony Criminal Convictions

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

32. Unfair Business Practices

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

33. Entities that Boycott Israel

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

34. E-Verify

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

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

35. Former Agency Employees – Certain Contracts

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

36. Disclosure of Prior State Employment – Consulting Services

If this Contract is for consulting services,

- A. In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, System Agency or another State of Texas agency at any time during the two years preceding the submission of Contractor’s offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:
1. Name of individual(s) (Contractor or employee(s));
 2. Status;
 3. The nature of the previous employment with HHSC or the other State of Texas agency;
 4. The date the employment was terminated and the reason for the termination; and
 5. The annual rate of compensation for the employment at the time of its termination.
- B. If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by System Agency or any other State of Texas agency at any time during the two years preceding the submission of Contractor’s offer to provide services.

37. Abortion Funding Limitation

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

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

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

38. Funding Eligibility

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

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

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

40. COVID-19 Vaccine Passports

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

41. Entities that Boycott Energy Companies

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

42. Entities that Discriminate Against Firearm and Ammunition Industries

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

43. Security Controls for State Agency Data

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

44. Cloud Computing State Risk and Authorization Management Program

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

45. Office of Inspector General Investigative Findings Expert Review

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

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

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

47. Foreign-Owned Companies in Connection with Critical Infrastructure

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

48. Critical Infrastructure Subcontracts

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

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

49. Enforcement of Certain Federal Firearms Laws Prohibited

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

50. Prohibition on Abortions

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

51. False Representation

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

52. False Statements

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

53. Permits and License

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

54. Drug-Free Workplace

Contractor represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §701 et seq.) and maintain a drug-free work environment.

55. Equal Employment Opportunity

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

56. Federal Occupational Safety and Health Law

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

57. Signature Authority

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

Signature Page Follows

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

Maverick County Hospital District

Legal Name of Contractor

The Lodge at Bear Creek

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

Tarrant

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

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



Alma Martinez

05/01/2022

Date Signed

CEO

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

Title of Authorized Representative

3729 Ira E Woods Ave.

Grapevine, TX 76051

Physical Street Address

City, State, Zip Code

same

Mailing Address, if different

City, State, Zip Code

(817) 527-7500

(817) 200-7092

Phone Number

Fax Number

ar.martinez@mchdep.org

NA

Email Address

DUNS Number

74-6000705

NA

Federal Employer Identification Number

Texas Identification Number (TIN)

NA

NA

Texas Franchise Tax Number

**Texas Secretary of State Filing
Number**

NA

SAM.gov Unique Entity Identifier (UEI)