

**SIGNATURE DOCUMENT FOR
DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS000436300020
UNDER THE
TEXAS EPIDEMIOLOGY CAPACITY EXPANSION GRANT PROGRAM**

I. PURPOSE

The Department of State Health Services (System Agency), and Montgomery County Public Health District (Grantee) (each a Party and, collectively, the Parties) enter into the following grant contract to provide funding for infectious disease surveillance and epidemiology activities (the Contract).

II. LEGAL AUTHORITY

This Contract is authorized by and in compliance with the provisions of Texas Government Code Chapter 791, and Chapters 12 and 121 of the Texas Health and Safety Code.

III. DURATION

The Contract is effective on September 1, 2019 and terminates on August 31, 2021 (Contract Period), unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. The System Agency, at its own discretion, may extend this Contract subject to terms and conditions mutually agreeable to both Parties.

IV. BUDGET

The total amount of this Contract will not exceed **ONE HUNDRED SIXTY-FIVE THOUSAND DOLLARS (\$165,000.00)**. Grantee is allocated **EIGHTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$82,500.00)** from September 1, 2019 to August 31, 2020 (FY 2020) and **EIGHTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$82,500.00)** from September 1, 2020 to August 31, 2021 (FY 2021).

Expenditures may not exceed the above allocated amounts within the specified timeframes.

All expenditures under the Contract will be in accordance with **ATTACHMENT B - BUDGET**.

V. NOTICE TO PROCEED

Funding for this Contract is dependent on final legislative appropriations. No FY 2020 work may begin and no charges may be incurred until the System Agency issues a written notice to proceed (NTP) to Grantee. This NTP may include an amended or ratified budget which will be incorporated into this Contract by a subsequent amendment, as necessary. Notwithstanding the preceding, at the discretion of the System Agency, Grantee may be eligible to receive reimbursement for eligible expenses incurred during the Contract Period as defined herein and by 2 CFR §200.309.

VI. SERVICES, PERFORMANCE MEASURES AND REPORTING REQUIREMENTS

Grantee understands and agrees that upon the Effective Date, Grantee will be responsible for performing all services proposed in the Statement of Work, attached hereto as **ATTACHMENT A - STATEMENT OF WORK** in accordance with all federal and state laws applicable to this Contract. Further, Grantee shall be subject to the performance measures and reporting requirements as stated in **ATTACHMENT A - STATEMENT OF WORK**.

VII. CONTRACT REPRESENTATIVES

The following will act as the Representative authorized to administer activities under this Contract on behalf of their respective Party.

System Agency

The Department of State Health Services
Attention: Caeli Paradise
1100 West 49th Street, MC 1990
Austin, TX 78756-4204
(512) 776-3767
Caeli.paradise@dshs.texas.gov

Grantee

Montgomery County Public Health District
Attention: Alicia Williams
1400 South Loop 336 West
Conroe, TX 77304
(936) 523-5025
Awilliams@mchd-tx.org

VIII. LEGAL NOTICES

Any legal notice required under this Contract shall be deemed delivered when deposited by the System Agency 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:

System Agency

The Department of State Health Services
Attention: General Counsel
1100 West 49th Street, MC 1911
Austin, TX 78756-4204

Grantee

Montgomery County Public Health District
Attention: Randy Johnson
1400 South Loop 336 West
Conroe, TX 77304

Notice given by Grantee will be deemed effective when received by the System Agency. Either Party may change its address for notice by written notice to the other Party.

SIGNATURE PAGE FOLLOWS

**SIGNATURE PAGE FOR SYSTEM AGENCY
CONTRACT NO. HHS000436300020**

SYSTEM AGENCY

GRANTEE

DEPARTMENT OF STATE HEALTH SERVICES

**MONTGOMERY COUNTY PUBLIC HEALTH
DISTRICT**

DocuSigned by:
Imelda Garcia
87AFD32AD9D24A9...

DocuSigned by:
Randy Johnson
8C50739ACF5A4B6...

Name Imelda Garcia

Name Randy Johnson

Title Associate Commissioner

Title Executive Director

Date of execution: March 28, 2019

Date of execution: March 28, 2019

**THE FOLLOWING ATTACHMENTS TO SYSTEM AGENCY CONTRACT NO. HHS000436300020 ARE
HEREBY INCORPORATED BY REFERENCE:**

- ATTACHMENT A - STATEMENT OF WORK**
- ATTACHMENT B - BUDGET**
- ATTACHMENT C - UNIFORM TERMS AND CONDITIONS (VERSION 2.15 - GRANTEE)**
- ATTACHMENT D - DSHS - SUPPLEMENTAL AND SPECIAL CONDITIONS - GRANTEE**
- ATTACHMENT E - DATA USE AGREEMENT**

ATTACHMENTS FOLLOW

ATTACHMENT A STATEMENT OF WORK

I. GRANTEE RESPONSIBILITIES

Grantee will:

- A. Perform surveillance and epidemiology activities for all notifiable conditions with an emphasis on conditions reported through the National Electronic Disease Surveillance System (NEDSS). Activities must be performed whether the Grantee uses NEDSS for disease reporting or not. Information on the NEDSS notifiable conditions can be accessed at <https://txnedss.dshs.state.tx.us:8009/PHINDox/UserResources>, file name "Program Areas in NBS Reportable Disease 2016.xlsx";
- B. Use NEDSS as the primary surveillance system. An alternative primary surveillance system may be used with prior approval from DSHS Emerging and Acute Infectious Disease Branch ("Branch"). Approval is contingent on a negotiated implementation plan to ensure electronic data is imported into NEDSS;
- C. Ensure that required data elements of notifiable conditions from the Grantee's primary surveillance system can be seamlessly imported electronically into NEDSS by May 1st, 2020. Alternatively, data may be manually entered by Grantee staff according to the Branch guidance documents;
- D. Adhere to the Branch updated guidance when conducting surveillance and epidemiology activities including, but not limited to:
 1. The Emerging and Acute Infectious Disease Guidelines <http://www.dshs.texas.gov/IDCU/investigation/Investigation-Guidance.doc>;
 2. NEDSS Data Entry Guide- <https://txnedss.dshs.state.tx.us:8009/PHINDox/UserResources/>; and
 3. Epi-Case Criteria Guide- <https://www.dshs.texas.gov/IDCU/investigation/Guidance-Manuals/>
- E. Conduct timely monitoring and management of incoming infectious disease laboratory reports. Ensure all laboratory reports are entered into NEDSS, if received on paper or verbally from providers;
- F. Maintain knowledge of all health care facilities, providers and laboratories in the Grantee's jurisdiction that are processing infectious disease laboratory reports not received through NEDSS. Provide technical assistance to these facilities, providers and laboratories to ensure there is an established method for receiving and processing laboratory reports in a timely manner;
- G. Ensure the Epidemiologist(s):
 1. Conducts case and outbreak investigations on all notifiable conditions reported through NEDSS;

- 2. Provides technical assistance and guidance to other Grantee staff (e.g. communicable disease nurses) who are conducting case and outbreak investigations, responding to disease reports, implementing measures to prevent further spread of disease, or coordinating prophylactic measures where appropriate; and
 - 3. Assesses the quality of surveillance data, perform analyses on surveillance data, and prepare situational updates on outbreaks.
- H. Attempt to complete one-hundred percent (100%) of questionnaires requested by the Branch. Complete and submit at least seventy-five percent (75%) of questionnaires related to all pertinent case and outbreak investigations within five (5) business days after the date requested by the Branch. Completed questionnaires include those in which the patient is contacted but refuses some or the entire questionnaire. Questionnaires for which no contact is made with the patient do not constitute a completed interview;

This applies to the notifiable conditions, including, but not limited to, in this table.

Listeriosis	Salmonellosis Clusters
Shiga toxin-producing Escherichia coli (STEC) Clusters	

- I. Submit completed questionnaires related to notifiable conditions and outbreak investigations to DSHS through a secure electronic method to the designated Branch epidemiologist or to fax number (512) 776-7616 no later than one (1) business day after completion of interview;

This applies to the notifiable conditions, including, but not limited to, in this table.

Cholera	Influenza A novel/variant
Listeriosis	Novel coronavirus
Salmonellosis Clusters	Shiga toxin-producing Escherichia coli (STEC) Clusters
Vibrio parahaemolyticus	Vibrio vulnificus infection
Vibriosis other or unspecified	

- J. Attempt to complete questionnaires related to outbreaks and notifiable conditions by making a documented effort to contact the patient at least three (3) times during normal business hours. If these attempts fail, Grantee must make an effort to contact the patient at least once after normal business hours. Questionnaires where efforts to contact the patient were unsuccessful are considered lost to follow-up and are not considered a completed questionnaire. This applies to the notifiable condition, not limited to, Salmonellosis Clusters;

- K. Investigate and document, through NEDSS, at least seventy-five percent (75%) of risk behavior and exposure information on select case investigations. This applies to the notifiable condition, not limited to, Hepatitis B, acute;

- L. Monitor the submission of required isolates for notifiable conditions reported through NEDSS. Ensure at least ninety percent (90%) of these isolates or those related to outbreak investigations are submitted for confirmatory and/or molecular testing to the DSHS Laboratory in Austin, Texas or to another public health laboratory as designated by DSHS and previously approved by the Branch;

This applies to the notifiable conditions, including but not limited to, in this table.

Botulism foodborne	Botulism, infant
Botulism other/unspecified	Botulism wound
Cholera	Haemophilus influenzae (under 5 years old)
Listeriosis	Meningococcal disease (Neisseria meningitidis)
Shiga toxin-producing Escherichia coli (STEC)	Vibrio parahaemolyticus
Vibrio vulnificus infection	Vibriosis other or unspecified

- M. Investigate and document at least ninety percent (90%) of confirmed and probable notifiable conditions correctly and completely within thirty (30) days of initial report;

This applies to the notifiable conditions, including but not limited to, in this table.

Botulism foodborne	Botulism, infant
Botulism other/unspecified	Botulism wound
Campylobacteriosis	Carbapenem-resistant Enterobacteriaceae (CRE)
Cryptosporidiosis	Cholera
Hemolytic uremic syndrome postdiarrheal	Hepatitis C acute
Hepatitis E acute	Influenza A novel/variant
Influenza-associated pediatric mortality	Listeriosis
Multi-drug Resistant Acinetobacter (MDR-A)	Salmonellosis
Shiga toxin-producing Escherichia coli (STEC)	Streptococcus invasive Group A
Streptococcus invasive Group B	Typhoid fever (Salmonella Typhi)
Vancomycin-intermediate Staphylococcus aureus (VISA)	Vancomycin-resistant Staphylococcus aureus coagulase-positive (VRSA)
Vibrio parahaemolyticus	Vibrio vulnificus infection
Vibriosis other or unspecified	Yersiniosis

- N. Submit responses to quarterly reports sent by the Branch that contain results for performance measures H through M during quarterly time periods of the contract. Submit via electronic mail to EAIDBcontracts@dshs.texas.gov within 20 business days from the date sent out by the Branch;

- O. Follow corrective action plan issued by the Branch for any performance measure needing improvement;
- P. Maintain open communication with other local health departments, regional health departments, and/or the Branch as necessary to ensure investigations are conducted efficiently and expeditiously;
- Q. Notify public health jurisdiction(s) of known cases or potential cases that do not reside in grantees jurisdiction (e.g. exposed contacts to a case who reside in another jurisdiction) within in one (1) business day;
- R. Ensure the respective regional health department and the Branch are informed of certain suspected cases and outbreaks. Also keep the regional health department and the Branch up-to-date on significant developments for the duration of those investigations;
- S. Educate, inform, and train the medical community and local providers on the importance of reporting notifiable conditions within Contractors jurisdiction. Ensure that providers collecting and shipping specimens for testing by the DSHS Laboratory adhere to collecting and shipping guidance in the Emerging and Acute Infectious Disease Guidelines;
- T. Present local training on epidemiology and surveillance related rules and regulations as requested. Conduct local level data analysis and utilize recent data findings to target and share recommendations/best practices for preventing disease spread;
- U. Participate in outbreak/cluster-related conference calls and responses relevant to the Grantee's jurisdiction as directed by DSHS;
- V. Participate in quarterly conference calls, scheduled by the Branch, to provide updates, progress reports, and other necessary communications;
- W. Work with DSHS during any technical reviews and quality assurance visits conducted by DSHS;
- X. Ensure that preparedness activities include infectious disease epidemiology and surveillance. These activities may include: planning and conducting preparedness exercises, providing technical assistance for community health assessments, developing community health improvement plans, and participating in Community Assessment for Public Health Emergency Response (CASPER). For more information on CASPER can be found at the following link.
<https://www.cdc.gov/nceh/hsb/disaster/casper/default.htm>);
- Y. Provide epidemiology surge capacity to surrounding jurisdictions in the event of a major statewide or regional outbreak or disaster; as directed by DSHS;

- Z. Retain an Epidemiologist(s) dedicated to conducting infectious disease surveillance and epidemiology activities. The Epidemiologist(s) must have, preferable, a Master of Public Health (MPH) or equivalent degree or at least two years working experience as an Epidemiologist performing infectious disease epidemiology and surveillance activities;

- AA. Ensure newly hired Epidemiologist(s) are offered a salary up to (but not to exceed) the midpoint State salary range equivalent to an Epidemiologist I (B19). See compensation schedule at:
<http://www.hr.sao.texas.gov/CompensationSystem/ScheduleAB?scheduleType=2018B>;

- BB. Require its staff to attend training, conferences, and meetings, as directed by the Branch. Epidemiologist(s) funded by this contract will be required to attend the workshop and training listed below. Should additional funding become available, other DSHS sponsored training, workshops, and conferences may be attended with prior Branch approval.
 - 1. The annual Epidemiology and Laboratory Capacity (ELC) Workshop conducted by the Branch or another Branch-approved substitute training; and
 - 2. The DSHS NEDSS training in Austin with certification completion within thirty (30) days of hire (if not already a certified NEDSS user).

- CC. Obtain prior approval from the Branch of any redirection of duties for Epidemiologist(s) funded by this contract;

- DD. Notify the Branch within forty-eight (48) hours of any personnel actions, including the details and outcome of such actions, involving any staff funded by this contract. A written report will be submitted within seventy-two (72) hours. Personnel actions include issues that develop regarding violations of the project, state, and/or Federal policies, procedures, requirements, and laws;

- EE. Ensure staff funded by this contract are compliant with the following Texas rules and statute related to infectious disease data confidentiality and security:
 - 1. Texas Administrative Code (TAC), Title 25 Health Services, Section 97.10-
[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=97&rl=10](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=97&rl=10); and
 - 2. Texas Health and Safety Code 81.046-
<https://statutes.capitol.texas.gov/Docs/HS/pdf/HS.81.pdf> .

- FF. Ensure newly hired staff funded by this contract successfully complete local confidentiality and security training 30 days from hire and continue to receive refreshed training as appropriate thereafter;

- GG. Implement a monitoring system to detect breaches in confidential data and security of protected health information;

- HH. Notify the Branch to facilitate confidential information exchange with jurisdictions located outside of Texas. Contact with another state to discuss confidential disease investigation can only be made with prior approval from the Branch;
- II. Submit a monthly report that lists all reported clusters and outbreaks along with information on investigation findings on the tracking sheet provided by the Branch. Monthly reports are due on the 15th calendar day of each month. Each report must cover activities that occurred during the preceding month. Submit monthly reports by electronic mail to EAIDBcontracts@dshs.texas.gov. All reports should be clearly identified with the Grantees Name, Contract Number, IDCU/SUR, and the month the report covers;
- JJ. Provide a written report, when requested by the Branch, detailing at least 3 success stories relating to disease investigations and/or epidemiological work conducted by staff funded by this contract;
- KK. Complete the Vacancy Report whenever an Epidemiologist position funded by this Contract has become vacant and again when the vacancy has been filled. Within 5 business days of the vacancy, the Vacancy Report must be submitted by email to EAIDBcontracts@dshs.texas.gov. Vacant positions existing for more than sixty (60) days may result in a decrease in funds; and
- LL. Complete the DSHS programmatic budget update form quarterly. Within 5 days of the end of the quarter, the form must be submitted by email to EAIDBcontracts@dshs.texas.gov;
- MM. Grantee shall initiate the purchase of all Equipment approved in writing by the DSHS in the first quarter of the Contract term, as applicable. Failure to timely initiate the purchase of Equipment may result in the loss of availability of funds for the purchase of Equipment. Requests to purchase previously approved Equipment after the first quarter in the Contract must be submitted to the assigned DSHS contract manager;
- NN. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets are considered Supplies.
- OO. Grantee shall maintain an inventory of Equipment, supplies defined as Controlled Assets, and real property and submit an annual cumulative report of the equipment and other property on DSHS Contractor's Property Inventory Report at <http://www.dshs.texas.gov/contracts/forms.shtm> to the assigned DSHS contract manager by e-mail not later than October 15 of each year; and
- PP. DSHS funds must not be used to purchase buildings or real property without prior written approval from the DSHS. Any costs related to the initial acquisition of the buildings or

real property are not allowable without written pre-approval.

II. PERFORMANCE MEASURES

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

III. INVOICE AND PAYMENT

- A. Grantee will request payments using the State of Texas Purchase Voucher (Form B-13) at <http://www.dshs.state.tx.us/grants/forms.shtm>. Voucher and any supporting documentation will be mailed or submitted by fax or electronic mail to the addresses/number below.

Department of State Health Services
Claims Processing Unit, MC 1940
1100 West 49th Street
P.O. Box 149347
Austin, Texas 78714-9347
FAX: (512) 776-7442
EMAIL: invoices@dshs.state.tx.us
Email: EAIDBcontracts@dshs.texas.gov

- B. Grantee will be paid on a cost reimbursement basis and in accordance with **ATTACHMENT B, BUDGET** of this Contract. Travel costs must not exceed General Services Administration (GSA) rates located at <https://www.gsa.gov/travel/plan-book/per-diem-rates> unless the Grantee has an established travel policy that has been reviewed and approved by DSHS.
- C. Grantee will submit a final Financial Status Report, B-13, and B-13A for the service period of September 1, 2019, through August 31, 2020, must be submitted by October 15, 2020. Any B-13s submitted after this date may not be reimbursed.

**ATTACHMENT B
BUDGET**

**MONTGOMERY COUNTY PUBLIC HEALTH
Contract No. HHS000436300020**

Categorical Budget	September 1, 2019 to August 31, 2020	September 1, 2020 to August 31, 2021	Total Contract Amount
PERSONNEL	\$50,610.00	\$50,610.00	\$101,220.00
FRINGE BENEFITS	\$12,668.00	\$12,667.00	\$25,335.00
TRAVEL	\$1,498.00	\$1,498.00	\$2,996.00
EQUIPMENT	\$0.00	\$0.00	\$0.00
SUPPLIES	\$264.00	\$265.00	\$529.00
CONTRACTUAL	\$0.00	\$0.00	\$0.00
OTHER	\$960.00	\$960.00	\$1,920.00
TOTAL DIRECT CHARGES	\$66,000.00	\$66,000.00	\$132,000.00
INDIRECT CHARGES	\$16,500.00	\$16,500.00	\$33,000.00
TOTAL	\$82,500.00	\$82,500.00	\$165,000.00

ATTACHMENT C
UNIFORM TERMS AND CONDITIONS (VERSION 2.15 - GRANTEE)

HHSC Uniform Terms and Conditions Version 2.15
Published and Effective: September 1, 2017
Responsible Office: Chief Counsel



Health and Human Services Commission
HHSC Uniform Terms and Conditions - Grant
Version 2.15

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ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.01 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 hereto, which documents changes to the Contract other than those permitted by Work Orders or Technical Guidance Letters, as herein defined.

“Attachment” means documents, terms, conditions, or additional information physically added to this Contract following the Signature Document or included by reference, as if physically, within the body of this Contract.

“Contract” means the Signature Document, these Uniform Terms and Conditions, along with any Attachments, and any Amendments, or Technical Guidance Letters that may be issued by the System Agency, to be incorporated by reference herein for all purposes if issued.

“Deliverable” means the work product(s) required to be submitted to the System Agency including all reports and project documentation.

“Effective Date” means the date agreed to by the Parties as 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.

“Grantee” means the Party receiving funds under this Contract, if any. May also be referred to as "Contractor" in certain attachments.

“Health and Human Services Commission” or “HHSC” means the administrative agency established under Chapter 531, Texas Government Code or its designee.

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

“Intellectual Property” means inventions and business processes, whether or not patentable; works of authorship; trade secrets; trademarks; service marks; industrial designs; and creations that are subject to potential legal protection incorporated in any Deliverable and first created or developed by Grantee, Grantee's contractor or a subcontractor in performing the Project.

“Mentor Protégé” means the Comptroller of Public Accounts’ leadership program found at: <http://www.window.state.tx.us/procurement/prog/hub/mentorprotege/>.

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

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

“Program” means the statutorily authorized activities of the System Agency under which this Contract has been awarded.

“Project” means specific activities of the Grantee that are supported by funds provided under this Contract.

“Public Information Act” or “PIA” means Chapter 552 of the Texas Government Code.

“Statement of Work” means the description of activities performed in completing the Project, as specified in the Contract and as may be amended.

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

“Solicitation or "RFA"” means the document issued by the System Agency under which applications for Program funds were requested, which is incorporated herein by reference for all purposes in its entirety, including all Amendments and Attachments.

“Solicitation Response” or “Application” means Grantee’s full and complete response to the Solicitation, which is incorporated herein by reference for all purposes in its entirety, including any Attachments and addenda.

“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 Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

“System Agency” means HHSC or any of the agencies of the State of Texas that are overseen by HHSC under authority granted under State law and the officers, employees, and designees of those agencies. These agencies include: HHSC and the Department of State Health Services.

“Technical Guidance Letter” or “TGL” means an instruction, clarification, or interpretation of the requirements of the Contract, issued by the System Agency to the Grantee.

1.02 Interpretive Provisions

- a. The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- 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 thereto, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Contract, and (ii) references to

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any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.

- d. Any references to "sections," "appendices," or "attachments" are references to sections, appendices, or attachments of the Contract.
- e. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Contract are references to these documents as amended, modified, or supplemented from time to time during the term of the Contract.
- f. The captions and headings of this Contract are for convenience of reference only and do not affect the interpretation of this Contract.
- g. All Attachments within this Contract, including those incorporated by reference, and any Amendments are considered part of the terms of this Contract.
- h. 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 and each will be performed in accordance with its terms.
- i. 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."
- j. Time is of the essence in this Contract.

ARTICLE II PAYMENT METHODS AND RESTRICTIONS

2.01 Payment Methods

Except as otherwise provided by the provisions of the Contract, the payment method will be one or more of the following:

- a. cost reimbursement. This payment method is based on an approved budget and submission of a request for reimbursement of expenses Grantee has incurred at the time of the request;
- b. unit rate/fee-for-service. This payment method is based on a fixed price or a specified rate(s) or fee(s) for delivery of a specified unit(s) of service and acceptable submission of all required documentation, forms and/or reports; or
- c. advance payment. This payment method is based on disbursement of the minimum necessary funds to carry out the Program or Project where the Grantee has implemented appropriate safeguards. This payment method will only be utilized in accordance with governing law and at the sole discretion of the System Agency.

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

2.02 Final Billing Submission

Unless otherwise provided by the System Agency, Grantee shall submit a reimbursement or payment request as a final close-out invoice not later than forty-five (45) calendar days following the end of the term of the Contract. Reimbursement or payment requests received in the System

Agency's offices more than forty-five (45) calendar days following the termination of the Contract may not be paid.

2.03 Financial Status Reports (FSRs)

Except as otherwise provided in these General Provisions or in the terms of any Program Attachment(s) that is incorporated into the Contract, for contracts with categorical budgets, Grantee shall submit quarterly FSRs to Accounts Payable by the last business day of the month following the end of each quarter of the Program Attachment term for System Agency review and financial assessment. Grantee shall submit the final FSR no later than forty-five (45) calendar days following the end of the applicable term.

2.04 Debt to State and Corporate Status

Pursuant to Tex. Gov. Code § 403.055, the Department will not approve and the State Comptroller will not issue payment to Grantee if Grantee is indebted to the State for any reason, including a tax delinquency. Grantee, if a corporation, certifies by execution of this Contract that it is current and will remain current in its payment of franchise taxes to the State of Texas or that it is exempt from payment of franchise taxes under Texas law (Tex. Tax Code §§ 171.001 et seq.). If tax payments become delinquent during the Contract term, all or part of the payments under this Contract may be withheld until Grantee's delinquent tax is paid in full.

2.05 Application of Payment Due

Grantee agrees that any payments due under this Contract will be applied towards any debt of Grantee, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

2.06 Use of Funds

Grantee shall expend funds provided under this Contract only for the provision of approved services and for reasonable and allowable expenses directly related to those services.

2.07 Use for Match Prohibited

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

2.08 Program Income

Income directly generated from funds provided under this Contract or earned only as a result of such funds is Program Income. Unless otherwise required under the Program, Grantee shall use the addition alternative, as provided in UGMS § __.25(g)(2), for the use of Project income to further the Program, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report this income in accordance with the Contract, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Contract term and may not carry Program Income forward to any succeeding term. Grantee shall refund program income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using it for the purposes and under the conditions specified in this Contract.

2.09 Nonsupplanting

Grantee shall not use funds from this Contract to replace or substitute for existing funding from other but shall use funds from this Contract to supplement existing state or local funds currently available. Grantee shall make a good faith effort to maintain its current level of support. Grantee may be required to submit documentation substantiating that a reduction in state or local funding, if any, resulted for reasons other than receipt or expected receipt of funding under this Contract.

ARTICLE III. STATE AND FEDERAL FUNDING

3.01 Funding

This Contract is contingent upon the availability of sufficient and adequate funds. If funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or agencies, amendment of the Texas General Appropriations Act, agency consolidation, or any other disruptions of current funding for this Contract, the System Agency may restrict, reduce, or terminate funding under this Contract. This Contract is also subject to immediate cancellation or termination, without penalty to the System Agency, if sufficient and adequate funds are not available. Grantee will have no right of action against the System Agency if the System Agency cannot perform its obligations under this Contract as a result of lack of funding for any activities or functions contained within the scope of this Contract. In the event of cancellation or termination under this Section, the System Agency will not be required to give notice and will not be liable for any damages or losses caused or associated with such termination or cancellation.

3.02 No debt Against the State

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

3.03 Debt to State

If a payment law prohibits the Texas Comptroller of Public Accounts from making a payment, the Grantee acknowledges the System Agency's payments under the Contract will be applied toward eliminating the debt or delinquency. This requirement specifically applies to any debt or delinquency, regardless of when it arises.

3.04 Recapture of Funds

The System Agency may withhold all or part of any payments to Grantee to offset overpayments made to the Grantee. 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. Grantee 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. Grantee further understands and agrees that reimbursement of such disallowed costs will be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Contract.

ARTICLE IV ALLOWABLE COSTS AND AUDIT REQUIREMENTS

4.01 Allowable Costs.

System Agency will reimburse the allowable costs incurred in performing the Project that are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Contract. The System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. If the System Agency has paid funds to Grantee for unallowable or ineligible costs, the System Agency will notify Grantee in writing, and Grantee shall return the funds to the System Agency within thirty (30) calendar days of the date of this written notice. The System Agency may withhold all or part of any payments to Grantee to offset reimbursement for any unallowable or ineligible expenditure that Grantee has not refunded to the System Agency, or if financial status report(s) required under the Financial Status Reports section are not submitted by the due date(s). The System Agency may take repayment (recoup) from funds available under this Contract in amounts necessary to fulfill Grantee’s repayment obligations. Applicable cost principles, audit requirements, and administrative requirements include-

Applicable Entity	Applicable Cost Principles	Audit Requirements	Administrative Requirements
State, Local and Tribal Governments	2 CFR, Part 225	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Educational Institutions	2 CFR, Part 220	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Non-Profit Organizations	2 CFR, Part 230	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
For-profit Organization other than a hospital and an organization named in OMB Circular A-122 (2 CFR Part, 230) as not subject to that circular.	48 CFR Part 31, Contract Cost Principles, Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the federal or state awarding agency	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS

OMB Circulars will be applied with the modifications prescribed by UGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

4.02 Independent Single or Program-Specific Audit

If Grantee, within Grantee's fiscal year, expends a total amount of at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The \$750,000 federal threshold amount includes federal funds passed through by way of state agency awards. If Grantee, within Grantee's fiscal year, expends a total amount of at least \$750,000 in state funds awarded, Grantee must have a single audit or program-specific audit in accordance with UGMS, State of Texas Single Audit Circular. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and UGMS. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or UGMS, as applicable, for their program-specific audits. HHSC Single Audit Services will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the Single Audit Determination Form within thirty (30) calendar days after notification by HHSC Single Audit Services to do so, Grantee shall be subject to the System Agency sanctions and remedies for non-compliance with this Contract. Each Grantee that is required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with the provisions of UGMS.

4.03 Submission of Audit

Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit electronically, one copy of the Single Audit or Program-Specific Audit to the System Agency as directed in this Contract and another copy to: single_audit_report@hhsc.state.tx.us

ARTICLE V AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

5.01 General Affirmations

Grantee certifies that, to the extent General Affirmations are incorporated into the Contract under the Signature Document, the General Affirmations have been reviewed and that Grantee is in compliance with each of the requirements reflected therein.

5.02 Federal Assurances

Grantee further certifies that, to the extent Federal Assurances are incorporated into the Contract under the Signature Document, the Federal Assurances have been reviewed and that Grantee is in compliance with each of the requirements reflected therein.

5.03 Federal Certifications

Grantee further certifies, to the extent Federal Certifications are incorporated into the Contract under the Signature Document, that the Federal Certifications have been reviewed, and that Grantee is in compliance with each of the requirements reflected therein. **In addition, Grantee certifies that it is in compliance with all applicable federal laws, rules, or regulations, as they may pertain to this Contract.**

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ARTICLE VI OWNERSHIP AND INTELLECTUAL PROPERTY

6.01 Ownership

The System Agency will own, and Grantee hereby assigns to the System Agency, all right, title, and interest in all Deliverables.

6.02 Intellectual Property

- a. The System Agency and Grantee will retain ownership, all rights, title, and interest in and to, their respective pre-existing Intellectual Property. A license to either Party's pre-existing Intellectual Property must be agreed to under this or another contract.
- b. Grantee grants to the System Agency and the State of Texas a royalty-free, paid up, worldwide, perpetual, non-exclusive, non-transferable license to use any Intellectual Property invented or created by Grantee, Grantee's contractor, or a subcontractor in the performance of the Project. Grantee will require its contractors to grant such a license under its contracts.

ARTICLE VII RECORDS, AUDIT, AND DISCLOSURE

7.01 Books and Records

Grantee will 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. Unless otherwise specified in this Contract, Grantee will 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.

7.02 Access to records, books, and documents

In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors will 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 will 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 will 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. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Grantee will produce original documents related to this Contract. The System Agency and any duly authorized authority will have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Grantee will include this provision concerning

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the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

7.03 Response/compliance with audit or inspection findings

- a. Grantee must act to ensure its and its Subcontractor's 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 goods or services provided hereunder. Any such correction will be at Grantee or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance will be solely the decision of the System Agency.
- b. As part of the Services, Grantee must provide to HHSC upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under the Contract.

7.04 SAO Audit

Grantee understands that 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's Office (SAO), or any successor agency, 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 SAO must provide the SAO with access to any information the SAO considers relevant to the investigation or audit. Grantee agrees to cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested. Grantee will ensure that this clause concerning the authority to audit funds received indirectly by Subcontractors through Grantee and the requirement to cooperate is included in any Subcontract it awards.

7.05 Confidentiality

Any specific confidentiality agreement between the Parties takes precedent over the terms of this section. To the extent permitted by law, Grantee agrees to keep all information confidential, in whatever form produced, prepared, observed, or received by Grantee. The provisions of this section remain in full force and effect following termination or cessation of the services performed under this Contract.

7.06 Public Information Act

Information related to the performance of this Contract may be subject to the PIA and will be withheld from public disclosure or released only in accordance therewith. Grantee must make all information not otherwise excepted from disclosure under the PIA available in portable document file (".pdf") format or any other format agreed between the Parties.

ARTICLE VIII CONTRACT MANAGEMENT AND EARLY TERMINATION

8.01 Contract Management

To ensure full performance of the Contract and compliance with applicable law, the System Agency may take actions including:

- a. Suspending all or part of the Contract;

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- b. Requiring the Grantee to take specific corrective actions in order to remain in compliance with term of the Contract;
- c. Recouping payments made to the Grantee found to be in error;
- d. Suspending, limiting, or placing conditions on the continued performance of the Project;
- e. Imposing any other remedies authorized under this Contract; and
- f. Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.

8.02 Termination for Convenience

The System Agency may terminate the Contract 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 HHSC's notice of termination.

8.03 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:

a. Material Breach

The System Agency will have the right to terminate the Contract in whole or in part if the System Agency determines, at its sole discretion, that Grantee 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 Grantee's duties under the Contract. Grantee's misrepresentation in any aspect of Grantee's Solicitation Response, if any or Grantee's addition to the Excluded Parties List System (EPLS) will also constitute a material breach of the Contract.

b. 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 Grantee no longer maintains the financial viability required to complete the Services and Deliverables, or otherwise fully perform its responsibilities under the Contract.

8.04 Equitable Settlement

Any early termination under this Article will be subject to the equitable settlement of the respective interests of the Parties up to the date of termination.

ARTICLE IX MISCELLANEOUS PROVISIONS

9.01 Amendment

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

9.02 Insurance

Unless otherwise specified in this Contract, Grantee will acquire and maintain, for the duration of this Contract, insurance coverage necessary to ensure proper fulfillment of this Contract and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry as determined by the System Agency. Grantee will provide evidence of insurance as required

under this Contract, including a schedule of coverage or underwriter’s schedules establishing to the satisfaction of the System Agency the nature and extent of coverage granted by each such policy, upon request by the System Agency. In the event that any policy is determined by the System Agency to be deficient to comply with the terms of this Contract, Grantee will secure such additional policies or coverage as the System Agency may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Grantee must produce renewal certificates for each type of coverage.

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

9.03 Legal Obligations

Grantee will 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. Grantee will be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them. In addition to any other act or omission that may constitute a material breach of the Contract, failure to comply with this Section may also be a material breach of the Contract.

9.04 Permitting and Licensure

At Grantee's sole expense, Grantee will 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 Grantee to provide the goods or Services required by this Contract. Grantee will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee agrees to be responsible for payment of any such government obligations not paid by its contactors or subcontractors during performance of this Contract.

9.05 Indemnity

TO THE EXTENT ALLOWED BY LAW, GRANTEE WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND ITS OFFICERS AND EMPLOYEES, AND THE SYSTEM AGENCY AND ITS OFFICERS AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND LIABILITIES, INCLUDING ATTORNEYS’ FEES AND COURT COSTS ARISING OUT OF, OR CONNECTED WITH, OR RESULTING FROM:

- a. GRANTEE'S PERFORMANCE OF THE CONTRACT, INCLUDING ANY NEGLIGENT ACTS OR OMISSIONS OF GRANTEE, OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF GRANTEE, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF GRANTEE, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- b. ANY BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD, RULE, OR BREACH OF CONTRACT BY GRANTEE, ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF GRANTEE, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF GRANTEE, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- c. EMPLOYMENT OR ALLEGED EMPLOYMENT, INCLUDING CLAIMS OF DISCRIMINATION AGAINST GRANTEE, ITS OFFICERS, OR ITS AGENTS; OR**

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d. WORK UNDER THIS CONTRACT THAT INFRINGES OR MISAPPROPRIATES ANY RIGHT OF ANY THIRD PERSON OR ENTITY BASED ON COPYRIGHT, PATENT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS.

GRANTEE WILL COORDINATE ITS DEFENSE WITH THE SYSTEM AGENCY AND ITS COUNSEL. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING SOLELY FROM THE GROSS NEGLIGENCE OF THE SYSTEM AGENCY OR ITS EMPLOYEES. THE PROVISIONS OF THIS SECTION WILL SURVIVE TERMINATION OF THIS CONTRACT.

9.06 Assignments

Grantee may not assign all or any portion of its rights under, interests in, or duties required under this Contract without prior written consent of the System Agency, which may be withheld or granted at the sole discretion of the System Agency. Except where otherwise agreed in writing by the System Agency, assignment will not release Grantee from its obligations under the Contract.

Grantee understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. This assignment will only be made to another State agency or a non-state agency that is contracted to perform agency support.

9.07 Relationship of the Parties

Grantee is, and will be, an independent contractor and, subject only to the terms of this Contract, will have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract will be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create for the System Agency any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Grantee or any other Party.

Grantee will be solely responsible for, and the System Agency will have no obligation with respect to:

- a. Payment of Grantee's employees for all Services performed;
- b. Ensuring each of its employees, agents, or Subcontractors who provide Services or Deliverables under the Contract are properly licensed, certified, or have proper permits to perform any activity related to the Work;
- c. Withholding of income taxes, FICA, or any other taxes or fees;
- d. Industrial or workers' compensation insurance coverage;
- e. Participation in any group insurance plans available to employees of the State of Texas;
- f. Participation or contributions by the State to the State Employees Retirement System;
- g. Accumulation of vacation leave or sick leave; or
- h. Unemployment compensation coverage provided by the State.

9.08 Technical Guidance Letters

In the sole discretion of the System Agency, and in conformance with federal and state law, the System Agency may issue instructions, clarifications, or interpretations as may be required during Work performance in the form of a Technical Guidance Letter. A TGL must be in

writing, and may be delivered by regular mail, electronic mail, or facsimile transmission. Any TGL issued by the System Agency will be incorporated into the Contract by reference herein for all purposes when it is issued.

9.09 Governing Law and Venue

This Contract and the rights and obligations of the Parties hereto will be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Contract will be in a court of competent jurisdiction in Travis County, Texas unless otherwise elected by the System Agency. Grantee irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto.

9.10 Severability

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract will be construed as if such provision did not exist and the non-enforceability of such provision will not be held to render any other provision or provisions of this Contract unenforceable.

9.11 Survivability

Termination or expiration of this Contract or a Contract for any reason will not release either party from any liabilities or obligations in this Contract that the parties have expressly agreed will survive any such termination or expiration, remain to be performed, or by their nature would be intended to be applicable following any such termination or expiration, including maintaining confidentiality of information and records retention.

9.12 Force Majeure

Except with respect to the obligation of payments under this Contract, if either of the Parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected Party (collectively referred to as a "Force Majeure"), then, while so prevented, the affected Party's obligation to comply with such covenant will be suspended, and the affected Party will not be liable for damages for failure to comply with such covenant. In any such event, the Party claiming Force Majeure will promptly notify the other Party of the Force Majeure event in writing and, if possible, such notice will set forth the extent and duration thereof.

9.13 No Waiver of Provisions

Neither failure to enforce any provision of this Contract nor payment for services provided under it constitute waiver of any provision of the Contract.

9.14 Publicity

Except as provided in the paragraph below, Grantee must not use the name of, or directly or indirectly refer to, the System Agency, the State of Texas, or any other State agency in any media release, public announcement, or public disclosure relating to the Contract or its subject

matter, including in any promotional or marketing materials, customer lists, or business presentations.

Grantee may publish, at its sole expense, results of Grantee 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.

9.15 Prohibition on Non-compete Restrictions

Grantee will 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.

9.16 No Waiver of Sovereign Immunity

Nothing in the Contract will be construed as a waiver of sovereign immunity by the System Agency.

9.17 Entire Contract and Modification

The 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 by the System Agency.

9.18 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.

9.19 Proper Authority

Each Party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract. Any Services or Work performed by Grantee before this Contract is effective or after it ceases to be effective are performed at the sole risk of Grantee with respect to compensation.

9.20 Employment Verification

Grantee will confirm the eligibility of all persons employed during the contract term to perform duties within Texas and all persons, including subcontractors, assigned by the contractor to perform work pursuant to the Contract.

9.21 Civil Rights

- a. Grantee 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. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Agreement.

Grantee agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.

- b. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
- c. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <http://hhs.gov/hhsa/ohrt/civil-rights/publications>
- d. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- e. Upon request, Grantee will provide HHSC Civil Rights Office with copies of all of the Grantee's civil rights policies and procedures.
- f. Grantee must notify HHSC'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 ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

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

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TTY Toll Free: (877) 432-7232
Fax: (512) 438-5885.

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**ATTACHMENT D
SUPPLEMENTAL AND SPECIAL CONDITIONS**

SUPPLEMENTAL CONDITIONS

There are no Supplemental Conditions for this Contract that modifies this Contract's HHS Uniform Terms and Conditions.

SPECIAL CONDITIONS

SECTION 10.01 NOTICE OF CONTRACT ACTION

Grantee shall notify their assigned contract manager if Grantee has had any contract suspended or terminated for cause by any local, state or federal department or agency or nonprofit entity within five days of becoming aware of the action and include the following:

- a. Reason for such action
- b. Name and contact information of the local, state or federal department or agency or entity;
- c. Date of the contract;
- d. Date of suspension or termination; and
- e. Contract or case reference number.

SECTION 10.02 NOTICE OF BANKRUPTCY

Grantee shall notify in writing its assigned contract manager of its plan to seek bankruptcy protection within five days of such action by Grantee.

SECTION 10.03 NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS

- a. Grantee shall immediately report in writing to their contract manager when Grantee has knowledge or any reason to believe that they or any person with ownership or controlling interest in the organization/business, or their agent, employee, contractor or volunteer that is providing services under this Contract has:
 1. Engaged in any activity that could constitute a criminal offense equal to or greater than a Class A misdemeanor or grounds for disciplinary action by a state or federal regulatory authority; or
 2. Been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime.
- b. Grantee shall not permit any person who engaged, or was alleged to have engaged, in any activity subject to reporting under this section to perform direct client services or have direct contact with clients, unless otherwise directed in writing by the System Agency.

Section 10.04 Grantee's Notification of Change of Contact Person or Key Personnel

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

SECTION 10.05 DISASTER SERVICES

In the event of a local, state, or federal emergency, including natural, man-made, criminal,

terrorist, and/or bioterrorism events, declared as a state disaster by the Governor, or a federal disaster by the appropriate federal official, Grantee may be called upon to assist the System Agency in providing the following services:

- a. Community evacuation;
- b. Health and medical assistance;
- c. Assessment of health and medical needs;
- d. Health surveillance;
- e. Medical care personnel;
- f. Health and medical equipment and supplies;
- g. Patient evacuation;
- h. In-hospital care and hospital facility status;
- i. Food, drug and medical device safety;
- j. Worker health and safety;
- k. Mental health and substance abuse;
- l. Public health information;
- m. Vector control and veterinary services; and
- n. Victim identification and mortuary services.

SECTION 10.06 SERVICES AND INFORMATION FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

- a. Grantee shall take reasonable steps to provide services and information both orally and in writing, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits and activities.
- b. Grantee shall identify and document on the client records the primary language/dialect of a client who has limited English proficiency and the need for translation or interpretation services and shall not require a client to provide or pay for the services of a translator or interpreter.
- c. Grantee shall make every effort to avoid use of any persons under the age of 18 or any family member or friend of the client as an interpreter for essential communications with a client with limited English proficiency, unless the client has requested that person and using the person would not compromise the effectiveness of services or violate the client's confidentiality and the client is advised that a free interpreter is available.

SECTION 10.07 INTERIM EXTENSION AMENDMENT

- a. Prior to or on the expiration date of this Contract, the Parties agree that this Contract can be extended as provided under this Section.
- b. The System Agency shall provide written notice of interim extension amendment to the Grantee under one of the following circumstances:
 1. Continue provision of services in response to a disaster declared by the governor; or
 2. To ensure that services are provided to clients without interruption.
- c. The System Agency will provide written notice of the interim extension amendment that specifies the reason for it and period of time for the extension.
- d. Grantee will provide and invoice for services in the same manner that is stated in the Contract.

- e. An interim extension under Section (b)(1) above shall extend the term of the contract not longer than 30 days after governor's disaster declaration is declared unless the Parties agree to a shorter period of time.
- f. An interim extension under Section (b)(2) above shall be a one-time extension for a period of time determined by the System Agency.

SECTION 10.08 GRANTEE'S CERTIFICATION OF MEETING OR EXCEEDING TOBACCO-FREE WORKPLACE POLICY MINIMUM STANDARDS.

Grantee certifies that it has adopted and enforces a Tobacco-Free Workplace Policy that meets or exceeds all of the following minimum standards of:

- a. Prohibiting the use of all forms of tobacco products, including but not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff and chewing tobacco;
- b. Designating the property to which this Policy applies as a "designated area," which must at least comprise all buildings and structures where activities funded under this Contract are taking place, as well as Grantee owned, leased, or controlled sidewalks, parking lots, walkways, and attached parking structures immediately adjacent to this designated area;
- c. Applying to all employees and visitors in this designated area; and
- d. Providing for or referring its employees to tobacco use cessation services.

If Grantee cannot meet these minimum standards, it must obtain a waiver from the System Agency.