



Ector County Commissioners' Court

July 23, 2024

10:00 AM

Commissioners' Courtroom, Ector County Administration Building Annex, 1010 E. 8th St.,
Odessa, Texas

CALL TO ORDER- Judge Dustin Fawcett

INVOCATION- Revered Steve Moss: First Methodist Church Odessa

PLEDGE OF ALLEGIANCE- United States and Texas

SPECIAL PRESENTATIONS/REQUESTS/RESOLUTIONS

1. *Public Participation/Comments, Shelby Rigtrup- County Judge Admin. Assistant:*

To receive public comments on non-agenda related items.

2. *Shared Ector/Midland County Extension Agent Appointment- Family and Community Health, Steve Paz- County Extension Agents Director:*

To consider, discuss, and take any necessary action regarding the state appointment of Krista Chin as the shared Ector/Midland County Extension Agent for Family and Community Health; agents educate and provide assistance to Texans in the areas of agriculture, environmental stewardship, youth and adult life skills, human capital and leadership, 4-H and youth program, health and nutrition, horticulture, and community economic resource development.

3. *2024-2026 Elections Term Approval: Election Judges, Co-Judges, Early Voting Clerks and the Ballot Board, Lisa Sertuche- Elections Director:*

To consider, discuss, and take any necessary action to approve the nominees of Judges, Co-Judges, Early Voting Clerks, and the Ballot Board for elections for a two-year term from 2024-2026.

AWARD OF BIDS/PROPOSALS

4. *Request for Bid Specifications: Road Material Testing II Services, Lucy Soto- Purchasing Director, Jeffrey Avery- Public Works Director:*

To consider, discuss, and take any necessary action on the *Request for Bid Specifications* for Road Material Testing II Services, Bid No. 2024-IFB-037; the specifications were put together by the Public Works Department and the Purchasing Department, and are ready to advertise and distribute to vendors upon approval from the Commissioners' Court.

5. *Request for Proposals: Coliseum Concessionaire, Lucy Soto- Purchasing Director, Aaron Martin- Coliseum Director:*

To consider, discuss, and take any necessary action regarding the specifications on the *Request for Proposals* for the Coliseum Concessionaire, Bid No. 2024-RFP-038; the specifications were put together by the Coliseum and the Purchasing Department, and are ready to advertise and distribute to vendors upon approval from the Commissioners' Court.

6. *Request for Proposals Award: Aviation Fuel Services, Lucy Soto- Purchasing Director, John Henderson- Commissioners' Court Attorney and Grant Writer:*

To consider, discuss, and take any necessary action to approve the *Request for Proposals Award* for Aviation Fuel Supply Services to Eastern Aviation Fuels, and authorize the County Judge to sign all documents associated with this agenda item.

CONTRACTS/AGREEMENTS/GRANTS

7. *TAC Liability Renewal Questionnaire and Auto Schedule, Sam Brijalba- HR Safety/Risk Coordinator:*

To consider, discuss, and take any necessary action regarding the *Texas Association of Counties (TAC) Liability Renewal Questionnaire and Auto Schedule* for the 2024-2025 Policy Term, and authorize the County Judge to sign all documents associated with this agenda item; the completed aforementioned documents may be utilized by the Texas Association of Counties (TAC) Risk Management Pool in processing the renewal and in assessing coverage needs of Ector County.

8. *DSHS Amendment No. 1, Contract No. HHS001331300040, Brandy Garcia- Health Department Director:*

To consider, discuss, and take any necessary action regarding Amendment No.1 on Contract No. HHS001331300040, *Immunization/Locals Grant*, between the Ector County Health Department and the Texas Department of State Health Services (DSHS), and authorize the County Judge to sign all documents associated with this agenda item; this includes an extension of the grant from September 1st, 2024 through August 31st, 2025, and the increase in the funding amount of \$191,873.00.

9. *DSHS Amendment No. 1, Contract No. HHS001311600001, Eunice Ibarra- Health Department:*

To consider, discuss, and take any necessary action regarding Amendment No.1 on Contract No. HHS001311600001, *Health Emergency Preparedness and Response Grant*, between the Ector County Health Department and the Texas Department of State Health Services (DSHS), and authorize the County Judge to sign all documents associated with this agenda item; this includes a revision to change the date for the final performance of the statement of work, and the financial status report is due to incorporate updated contract affirmations and uniform terms and conditions.

10. *DSHS Amendment No. 4, Contract No. HHS000812700018, Eunice Ibarra- Health Department:*

To consider, discuss, and take any necessary action regarding Amendment No. 4 on Contract No. HHS000812700018 between the Ector County Health Department and the Texas Department of State Health Services (DSHS), and authorize the County Judge to sign all documents associated with this agenda item; this includes a revision of the statement of work and budget to add additional funding in the amount of \$73,372.00 for SARS-CoV-2 outbreak response activities; the effective date of this amendment will end July 31st, 2026, and the total of this contract will not exceed \$249,464.00.

11. *Temporary Employee Staffing Agreement: Jail Medical Staffing, Mike Griffis- Sheriff:*

To consider, discuss, and take any necessary action regarding a *Temporary Employee Staffing Agreement* with Health Advocates Network, a temporary employee medical staffing agency, for the Ector County Jail, and authorize the County Judge to sign all documents associated with this agenda item.

12. *Professional Services Exemption Order, Lucy Soto- Purchasing Director, Jeffrey Avery- Public Works Director:*

To consider, discuss, and take any necessary action to approve an order *exempting* Ector County from the requirements of the *County Purchasing Act* for the procurement of architectural services from KDC Associates, in accordance with the Texas Local Government Code 262.024, and authorize the County Judge, County Commissioners, and County Clerk to sign all documents associated with this agenda item.

13. *Landscape Architectural Services Agreement, Lucy Soto- Purchasing Director, Jeffrey Avery- Public Works Director:*

To consider, discuss, and take any necessary action to approve the *Landscape Architectural Services Agreement* with KDC Associates for the design of a Parks Master Plan, and authorize the County Judge to sign all documents associated with this agenda item.

14. *Distribution Easement and Right of Way (ROW) Agreement, John Henderson- Commissioners' Court Attorney and Grant Writer:*

To consider, discuss, and take any necessary action regarding the *Distribution Easement and Right of Way (ROW) Agreement* by and between Ector County and Atmos Energy in regard to the moving of an existing ROW located upon the Ector County/Odessa Schlemeyer Field Airport, and authorize the County Judge to sign all documents associated with this agenda item.

15. *Ground Lease Agreement, John Henderson- Commissioners' Court Attorney and Grant Writer:*

To consider, discuss, and take any necessary action regarding a *Ground Lease Agreement* by and between Ector County and Wor-Pro Investments, LLC., located at the Ector County/Odessa Schlemeyer Field Airport, and authorize the County Judge and County Clerk to sign all documents associated with this agenda item.

16. *Asset Purchase Agreement, John Henderson- Commissioners' Court Attorney and Grant Writer:*

To consider, discuss, and take any necessary action regarding the *Asset Purchase Agreement* for the assets owned by T. Aero II, LLC., by and between Ector County and T. Aero II, LLC., in regard to the assets and hangars located at the Ector County/Odessa Schlemeyer Field Airport, and authorize the County Judge to sign all documents associated with this agenda item.

17. *Assignment and Assumption of Ground Lease, John Henderson- Commissioners' Court Attorney and Grant Writer:*

To consider, discuss, and take any necessary action regarding the *Assignment and Assumption of Ground Lease* for the ground lease currently owned by T. Aero II, LLC., by and between Ector County and T. Aero II, LLC., in regard to the hangar located at the Ector County/Odessa Schlemeyer Field Airport, and authorize the County Judge to sign all documents associated with this agenda item.

18. *Bill of Sale and Assumption Agreement, John Henderson- Commissioners' Court Attorney and Grant Writer:*

To consider, discuss, and take any necessary action regarding the *Bill of Sale and Assumption Agreement* for the assets owned by T. Aero II, LLC., by and between Ector County and T. Aero II, LLC., in regard to the assets and hangars located at the Ector County/Odessa Schlemeyer Field Airport, and authorize the County Judge to sign all documents associated with this agenda item.

PERSONNEL REQUESTS

19. *Public Works County Engineer Job Reclassification, Amber Valles- Public Works Department Coordinator:*

To consider, discuss, and take any necessary action to approve the *reclassification* of Assistant Public Works Director to County Engineer for the Ector County Public Works Department; funding will be from account # 002-820 Engineering.

PUBLIC WORKS

20. *Wheeler Road Acceptance and Maintenance, Lucy Soto- Purchasing Director, Jeffrey Avery- Public Works Director:*

To consider, discuss, and take any necessary action regarding the *acceptance and maintenance* of the newly reconstructed County Road 307 (South Wheeler Road) from approximately 3,783-feet South of State Highway 302 and County Road 307 intersection to Winkler County Road 404 (7.32 miles), and authorize the County Judge to sign all documents associated with this agenda item.

CONSENT AGENDA

21. *Proposed Consent Agenda, Tristan Marquez- County Auditor:*

To consider, discuss, and take any necessary action regarding the following Proposed Consent Agenda:

- 21a.) Line-Item Transfer- Post-Sentence Monitoring:

To consider, discuss, and take any necessary action to approve a line-item transfer to General Fund, Post Sentence Monitoring, Educational Travel, 001-425-5161 from Departmental Furniture & Equipment, 001-425-5199 for \$850.00, and authorize the County Judge and County Clerk to sign all documents associated with this agenda item.

- 21b.) Line-Item Transfer- Elections:

To consider, discuss, and take any necessary action to approve a line-item transfer to Elections Fund, Educational Travel, 004-980-5161 from Postage, 004-980-5193 for \$4,500.00, and authorize the County Judge and County Clerk to sign all documents associated with this agenda item.

- 21c.) Line-Item Transfer- Auditor's Office:

To consider, discuss, and take any necessary action to approve a line-item transfer to General Fund, Auditor, Office Supplies, 001-260-5171 from Full-Time Salaries, 001-260-5103 for \$1,000.00, and authorize the County Judge and County Clerk to sign all documents associated with this agenda item.

BUDGET/FINANCIAL

22. Budget Amendment- Capital Improvements, Tristan Marquez- County Auditor:

To consider, discuss, and take any necessary action to approve a budget amendment to Capital Improvements Fund, New Building, 044-990-5503 from Unreserved fund balance, 044-3310 for \$130,414.00, and authorize the County Judge and County Clerk to sign all documents associated with this agenda item.

23. Annual Comprehensive Financial Report, Tristan Marquez- County Auditor:

To consider, discuss, and take any necessary action to accept the *Annual Comprehensive Financial Report* for the year ending September 30th, 2023.

24. Financial Reports/Statements, Tristan Marquez- County Auditor:

To consider, discuss, and take any necessary action to approve the Accounts Payable Fund Requirements Report for July 23rd, 2024, and review County financial statements and reports.

EXECUTIVE SESSION

25. Legal Matters, Shelby Rigtrup- County Judge Admin. Assistant:

To consider and discuss legal matters pursuant to Title 5, Chapter 551, Section 551.071, Texas Government Code.

26. Real Estate, Shelby Rigtrup- County Judge Admin. Assistant:

To consider and discuss real estate issues/transactions pursuant to Title 5, Chapter 551, Section 551.072, Texas Government Code.

27. Personnel Matters, Shelby Rigtrup- County Judge Admin. Assistant:

To consider and discuss personnel matters pursuant to Title 5, Chapter 551, Section 551.074, Texas Government Code.

ADJOURN

If necessary, following any closed or executive meeting, the Commissioners' Court will convene in open session to take any final action, decision, or vote on any matter deliberated in a closed meeting which has properly been noticed in compliance with Chapter 551 Government Code of Texas.

If, during the course of the meeting covered by the notice, the Commissioners' Court needs to meet in executive session, then such closed or executive meeting or session, pursuant to Chapter 551, Government Code of Texas, will be held by the Commissioners' Court on the date, hour, and place given in this notice or as soon after the commencement of the meeting covered by this notice as the court may conveniently meet in such closed or executive meeting or session convening and concerning any and all subjects and for any and all purposes permitted by Chapter 551 of said Government Code.

Posted on July 18, 2024
At 04:53 PM


A handwritten signature in cursive script, appearing to read "Sherry Franco".

Chief Deputy, Ector County Clerk

The Ector County Commissioners' Court meetings are available to all persons regardless of disability. Individuals with disabilities who require special assistance should contact the Ector County Commissioners' Assistant at (432) 498-4000 or 1010 East 8th Street, Room 118, Odessa, Texas 79761 during normal business hours and at least one (1) business day in advance.

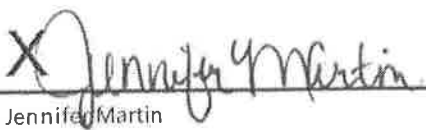
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If, during the course of the meeting covered by the notice, the Commissioners' Court needs to meet in executive session, then such closed or executive meeting or session, pursuant to Chapter 551, Government Code of Texas, will be held by the Commissioners' Court on the date, hour, and place given in this notice or as soon after the commencement of the meeting covered by this notice as the Court may conveniently meet in such closed or executive meeting or session convening and concerning any and all subjects and for any and all purposes permitted by Chapter 551 of said Government Code.

X 

Dustin Fawcett
Ector County Judge

ATTEST:

X 
Jennifer Martin
County Clerk

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**LIST OF NOMINEES FOR THE APPOINTMENT OF JUDGES AND CO-JUDGES
2024-2026**

CERT #	RECOMMENDED NAMES 2024-2026 TERM	PCT	PARTY AFFILIATION	PHONE NUMBER	WORKED 2022-2024
9915044	Jennifer Aguilar*	104	REP	(432) 978-6729	Yes
10006381	Yvonne Aldaz*	101	REP	(214) 931-2462	Yes
10036543	Zachary Aldaz*	101	E/P	(214) 854-2611	Yes
9503892	Claudia Melissa Alvarado*	404	DEM	(432) 308-2635	Yes
9205728	Euphemia "Fannie" Alvarado*	404	DEM	(432) 889-2862	Yes
9210294	Severa Arenivas*	406	REP	(432) 889-2909	Yes
10018042	Sarah Arenivas	101	REP	(432) 967-0019	Yes
10000748	Alicia Barker	110	REP	(325) 232-5124	Yes
9208031	Elvetta Bracy	201	DEM	(432) 413-2803	Yes
10037004	Judith Bustamante	203	E/P	(432) 386-3613	Yes
69368	Judy Calloway	312	REP	(432) 528-2831	Yes
9921982	Martha Campos*	301	REP	(432) 634-6374	Yes
9924387	Alma Carrasco	314	REP	(432) 352-6049	Yes
9901185	Ida Cortez	314	REP	(432) 238-4829	Yes
9980864	Rachael Dominguez*	310	REP	(432) 238-4829	Yes
9600751	Lu Cleere	301	REP	(432) 528-3829	Yes
9971966	Leyna Collazo Flores*	201	REP	(432) 212-4551	Yes
9950380	Virginia Dominguez	314	DEM	(432) 940-7503	Yes
10023556	Trenity Faulkner	402	E/P	(432) 210-0420	Yes
9925851	Iris Fierro*	406	DEM	(432) 631-9746	Yes
9301306	Griselda Flores*	204	DEM	(432) 307-2075	Yes
9967272	Maria Flotte*	202	REP	(432) 258-5034	Yes
9972675	Elisa Gamboa*	303	DEM	(432) 288-5334	Yes
9204288	Ismelda Gamboa*	103	REP	(432) 741-0998	Yes

**LIST OF NOMINEES FOR THE APPOINTMENT OF JUDGES AND CO-JUDGES
2024-2026**

CERT #	RECOMMENDED NAMES 2024-2026 TERM	PCT	PARTY AFFILIATION	PHONE NUMBER	WORKED 2022-2024
9701370	Francis Garcia*	303	REP	(432) 352-9021	Yes
9943604	Chane Gildon	402	DEM	(432) 553-7720	Yes
10008764	Stephany Gutierrez*	404	DEM	(432) 232-3792	Yes
9607914	Joan Heard	205	DEM	(432) 366-6272	No
83490	Rosa Hernandez*	202	REP	(432) 362-5237	Yes
10009860	Katherine Hutto	403	REP	(830) 343-5015	Yes
10035547	Seth Hutto	403	REP	(830) 343-5015	Yes
10038402	Daniela Jimenez-Anaya	309	E/P	(432) 538-2049	Yes
9003395	Sheryl Jones	204	REP	(512) 971-6594	Yes
10005761	Susan Jones	312	REP	(575) 441-6920	Yes
10027255	Shelby Johnson	207	E/P	(970) 560-1553	Yes
9906066	Mattie Justice	412	DEM	(432) 257-5051	No
74019	Sherrie Keating	203	REP	(432) 230-4417	Yes
9405030	Regina King	407	REP	(432) 307-8339	Yes
98078	Wesley King	314	REP	(432) 553-2908	No
9801307	Maria Leyva*	208	REP	(432) 661-7195	No
9604740	Sylvia "Paty" Lujan*	205	REP	(432) 413-5610	Yes
26512	AC Marquez*	403	DEM	(432) 352-1486	Yes
9000963	Olga Marquez*	305	REP	(432) 269-7436	Yes
9930827	Luisana Mauricio*	203	REP	(432) 634-9644	Yes
10004279	Diana McClure*	101	REP	(432) 770-5493	Yes
10023504	Hannah McKee	109	E/P	(432) 257-5210	Yes
9983501	Guadalupe Medina*	101	REP	(432) 248-1153	Yes

**LIST OF NOMINEES FOR THE APPOINTMENT OF JUDGES AND CO-JUDGES
2024-2026**

CERT #	RECOMMENDED NAMES 2024-2026 TERM	PCT	PARTY AFFILIATION	PHONE NUMBER	WORKED 2022-2024
9931408	Elizabet Morales*	301	REP	(432) 889-6752	Yes
9910404	Mary Najar*	303	DEM	(432) 234-4015	Yes
9926723	Rebecca Natividad*	205	DEM	(432) 557-2238; 272-3608	Yes
10027541	Alondra Ortiz	406	REP	(432) 943-0496	Yes
9919238	Sylvia Ortiz	403	DEM	(432) 853-8228	Yes
78091	Reta Perdue	201	REP	(432) 934-5542	Yes
10004823	Kara Pugh	202	REP	(325) 330-0519	Yes
9600324	Anabel Ramirez*	407	DEM	(432) 212-9581	Yes
9944459	Elvia Ramirez*	404	REP	(432) 530-5553	Yes
10011603	Breanna Ramirez-Franco	306	REP	(432) 924-7000	Yes
9606291	Chad Riley	303	DEM	(432) 260-6140	Yes
82306	Olivia Rivas*	301	REP #	(432) 332-6702; 889-2839	Yes
71926	Ruben Rivas*	301	DEM	(432) 889-2833	Yes
9700510	Maria "Lorena" Rodriguez*	301	DEM	(432) 853-8060	Yes
9930868	Celia Roman*	404	REP #	(432) 940-5355	Yes
9918041	Teri Shaver	203	REP	(432) 413-9075	Yes
9908924	Mary Tavarez*	407	REP	(432) 202-9036	Yes
9303863	Otilia Valenzuela*	307	REP	(432) 770-5269	Yes
78805	June Walker	403	DEM	(432) 349-4990	Yes
10039540	Shanece Daje Jynece Williams	209	E/P	(432) 288-3500	Yes
10031528	Irma Carolina Wong*	203	E/P	(830) 325-4045	Yes

INDICATES PARTY CHANGE

*** INDICATES BILINGUAL**

LIST OF NOMINEES FOR THE APPOINTMENT OF EARLY VOTING CLERKS (TWO YEARS 2024-2026)

<u>NAME</u>	<u>PARTY</u>	<u>ADDRESS</u>	<u>PHONE</u>
<u>ANNEX-DEMOCRAT BOX</u>			
MARY NAJAR	D	1821 N WASHINGTON AVE (61)	(432)227-7673
YVONNE ALDAZ	R	10570 W UNIVERSITY BLVD #4 (64)	(214)931-2462
RETA PERDUE	R	6908 STONEHENGE RD (62)	(432)934-5542
ZACHARY ALDAZ	E/P	10570 W UNIVERSITY BLVD #4 (64)	(214)854-2611
OLGA MARQUEZ	R	1223 N WASHINGTON AVE (61)	(432)202-4899
<u>Salinas Community Bldg.-DEMOCRAT BOX</u>			
AC MARQUEZ	D	1327 BROUGHTON AVE (61)	(432)352-1486
TERI SHAVER	R	4036 LAKESIDE DR (62)	(432)413-9075
CELIA ROMAN	R	7560 S HWY 385 (66)	(432)940-5355
JUNE WALKER	D	1322 BLUEBONNET AVE (61)	(432)349-4990
<u>Odessa College Sports Center-REPUBLICAN BOX</u>			
SEVERA "SHEBBY" ARENIVAS	R	2405 W 13 TH ST (63)	(432)889-2909
REBECCA NATIVIDAD	D	5201 LOCUST AVE (62)	(432)557-2238
OLIVIA RIVAS	R	1820 W 25 TH ST (63)	(432)889-2839
RUBEN RIVAS	R	1820 W 25 TH ST (63)	(432)889-2833
<u>MCM Elegante-REPUBLICAN BOX</u>			
***MARTHA CAMPOS	R	1717 HEMPHILL AVE (63)	(432)634-6374
ELISA GAMBOA	D	1000 W 25 TH ST (63)	(432)288-5334
**LU CLEERE	R	1902 BACA DR (63)	(432)528-3829
ROGER CLEERE	R	1902 BACA DR (63)	(432)553-0616
ROSA "ROSE" HERNANDEZ	R	2435 CAMBRIDGE ST (61)	(432)208-5954
<u>Kellus Turner Community Bldg.-REPUBLICAN BOX</u>			
BREANNA RAMIREZ FRANCO	R	1712 W 23 RD ST (63)	(432)282-8958
MARIA TAVAREZ	R	860 N CLEARVIEW AVE (63)	(432)202-9036
ALMA CARRASCO	R	5003 KINGSTON AVE (62)	(432)352-6049
OTILIA VALENZUELA	R	3603 PERSHING AVE (62)	(432)770-5269
NINFA MONTOYA ALLIGOOD	D	6500 EASTRIDGE RD #25 (62)	(432)448-1809
<u>RESERVED</u>			
JENNIFER AGUILAR	R	3815 N MERCURY AVE (64)	(432)978-6729
SARAH ARENIVAS	R	11065 W PALOMINO DR (64)	(432)248-4051
ALICIA COOPER	D	927 SNYDER ST (61)	(432)889-3840
IDA CORTEZ	R	1208 E 43 RD ST (62)	(432)924-5058
ANGELICA MUNIZ	R	3851 N MILKYWAY AVE (64)	
LETICIA CASIAS	R	8428 W JAY ST (63)	

LIST OF NOMINEES FOR THE APPOINTMENT OF BALLOT BOARD (TWO YEARS 2024-2026)

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>
<u>REPUBLICAN</u>		
DONNA KELM	25 KINGSLAND CT (62)	(432)413-8894
DIANN MCKEE	4632 CONLEY AVE (62)	(432)978-1986
JEFF RUSSELL	1703 REDBUD (61)	(432)352-8993
FREDA DANIELS	9406 AGAVE AVE (65)	(432)202-0267
DAWN TUCKER	6209 MECCA ST (62)	(432)631-2672
JUDY MAIKELL CALLOWAY	1305 BONHAM AVE (61)	(432)528-2831
JESSE CHRISTESSON	6731 W MOCKINGBIRD LN (63)	(432)438-9707
JENNIFER WOODALL	4374 N CYPRESS AVE (64)	(432)288-4479
NOEME VILLALOBOS	1338 S SAM HOUSTON AVE (61)	(432)331-2315
CLAUDETTE WEBB	4625 ORCHID LN (61)	(432)296-0817
CARMEN BOWINGTON	4315 CLOVER AVE (62)	(432)288-4033
CLAYTON SMITH	3616 SPRINGBROOK DR (62)	(432)208-8115
BECKY RIVERA-WEISS	913 W 21 ST ST (63)	(432)528-3644
JULIANNA CROW	2388 BAINBRIDGE DR (62)	(432)741-2827
EVELYN KENNEDY	3517 BOULDER AVE (62)	(254)223-1096
TONI COX	2614 BEATY AVE (63)	(432)212-8394
THOMAS BOWE	405 E 89 TH ST (65)	(432)349-7749

DEMOCRAT

DANIEL RYAN	9100 ANDREWS HWY #1517 (65)	(432)978-7405
JOANNA WELLS KEESE	2902 S FULTON AVE (66)	(432)889-5451
BOBBIE DUNCAN	20 TROON DR (65)	(432)362-6136
DELORES SCHULER	2521 BOBWHITE DR (61)	(432)362-7204
KAY KETZENBERGER	3940 MAPLE AVE (62)	(432)528-3636
TIM MCDANIEL	721 DOTSY AVE (63)	(432)631-8795
KATE MAHONEY	502 W 22 ND ST (61)	(432)552-9130
ANGELICA FELIZ ABALOS	3951 ESMOND (62)	(432)333-3614
HANNAH BOYER	1516 E 14 TH ST (61)	(337)852-0520
HELEN HUSBAND	1707 RIDGECREST AVE (62)	(432)770-5479
JONATHAN GANTZ	9100 ANDREWS HWY #1517 (65)	(432)269-2785
JUAN MELCHOR	1403 W 23 RD ST (63)	(432)208-4592
BRYSA HINOJOSA CASTELLON	810 E 5 TH ST (61)	(432)703-3407
JUAN DIAZ	1317 N KELLY AVE (63)	(432)258-0772
NADIA NAVARETTE	1549 ALAMEDA AVE (63)	(432)202-6030
DAN HAMILTON	10 PRESTON OAKS CIR (61)	(432)528-7965



Ector County
1010 E. 8th Street
Odessa, Texas 79761

2024-IFB-037

ROAD CONSTRUCTION MATERIAL TESTING (II)

**Ector County requests that Respondents use the OpenGov software
<https://www.co.ector.tx.us/page/ector.opengovbidsandproposals> in order to submit your
response.**

However, the County will accept hard copies of responses.
All sealed bids should be received by the Ector County Purchasing Agent, Attn: Lucy Soto 1010 E. 8th Street, Odessa, TX 79761 prior to the response deadline. If a Respondent chooses to submit a Hard Copy Bid, it must be delivered in a sealed envelope, with a return address and clearly marked "ROAD CONSTRUCTION MATERIAL TESTING (II)." The Respondent's firm name shall appear on the outside of the envelope.

See attached bid specifications and conditions

**ECTOR COUNTY COMMISSIONERS COURT RESERVES THE RIGHT TO ACCEPT ANY
QUALIFIED BID OR REJECT ANY OR ALL BIDS**

The mission of Ector County is to provide quality public service to its citizens in a timely, efficient and courteous manner. Ector County strives to accomplish this objective while maintaining fiscal responsibility and governmental accountability to safeguard the public trust

The County of Ector does not discriminate on the basis of race, color, national origin, sex, religion, age, and disability in employment or the provision of services.

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2024-IFB-037

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6. PRICING PROPOSAL	
7. VENDOR QUESTIONNAIRE.....	

If any of the above items are not included, you should immediately contact the Ector County Purchasing Department located at 1010 E. 8th Street, Room 110, Odessa, Texas 79761 in person or by mail, by calling 432-498-4020, or by email at lucy.soto@ectorcountytexas.gov, and request the missing information.

Ector County assumes no responsibility for omissions or duplications because of the arrangement of the bid document's conditions and/or specifications.

1. INTRODUCTION

1.1. TIMELINE

Specifications approved by Commissioners Court:	July 23, 2024
1st Advertisement:	July 27, 2024
2nd Advertisement:	August 3, 2024
Pre-Bid Meeting (Non-Mandatory):	August 5, 2024, 10:00am https://events.gcc.teams.microsoft.com/event/e002e505-c931-4534-8fc7-319f1389f6d5@1f6cbbe1-fc21-4e0e-b5d0-7fd701a3cdcc
Questions Due:	August 7, 2024, 5:00pm
Questions Answered:	August 9, 2024, 5:00pm
Bids Due/Bid Opening:	August 16, 2024, 2:00pm

1.2. SUMMARY

Ector County is requesting bids on ROAD CONSTRUCTION MATERIAL TESTING (II). Sealed or Electronic Bids addressed to Ector County Purchasing Agent, Lucy Soto will be received by 2:00 pmon Friday, August 16, 2024. Any bids received after bid closing time will not be accepted.

The project consist of eligible firms that will operate as an extension of, and in complete cooperation with the Public Works Staff to provide Material Testing Services for 2024-2025 Capital Improvement Projects. Provide all services and reports related to inspection and coordination of testing for soils, flexible base, asphaltic concrete, concrete, and other materials typically used on Ector County projects. Frequency and scheduling to be as requested by client.

The inspector(s)/technician(s) will be expected to work in dependently and in conjunction with the Public Works staff under this contract and will report to the Public Works Department.

All bids should be received either electronically, or at the location below by the deadline. If Bidder chooses to submit a Hard copy, it must be delivered in a sealed envelope with a return address and clearly marked "ROAD CONSTRUCTION MATERIAL TESTING (II)" The Bidder's firm name shall appear on the outside of the envelope.

Deadline for bid submission is 2:00 pm on Friday, August 16, 2024. Location for hard copy submittal is Ector County Purchasing Department, 1010 E 8th Street, Suite 110, Odessa, TX 79761.

1.3. OPENGGOV

Ector County Purchasing Department has transitioned to OpenGov Procurement for Contractor and Vendor registration, posting, bid submittals, bid receivals, quotes, and proposals for solicitations. Contractors/Vendors are strongly encouraged to register with OpenGov Procurement at <https://procurement.opengov.com/signup> to participate in active solicitations.

Should you need technical assistance with OpenGov, the following options are available:

Email: procurement-support@opengov.com

Phone: (855) 680-4747 8AM-8PM Monday-Friday

Web: <https://help.procurement.opengov.com>

1.4. PURCHASING

Any technical questions concerning product specifications and/or document preparation prior to the bid opening date should be directed to: Lucy Soto, Phone (432) 498-4020, Email lucy.soto@ectorcountytexas.gov and Dianna Navarrette, Phone (432) 498-4020, Email dianna.navarrette@ectorcountytexas.gov.

Department Head:

Lucy Soto CPPO, NIGP-CPP, CPPB

Purchasing Agent

Email: lucy.soto@ectorcountytexas.gov

Phone: (432) 498-4020

2. **GENERAL CONDITIONS**

The Commissioner's Court of Ector County is requesting bids from qualified bidders for the purchase of ROAD CONSTRUCTION MATERIAL TESTING (II), in accordance with the requirements specified herein and including all provisions set forth in the accompanying documentation.

2.1. PURPOSE

The purpose of these specifications are to provide sufficient information to allow bidders the opportunity to submit a bid on the requirements for ROAD CONSTRUCTION MATERIAL TESTING (II).

2.2. BID INSTRUCTIONS

- A. If bidder does not wish to submit an offer at this time, but desires to remain on the list for this bid, please submit the "Non-Response Notification" form by the same time and at the same location as mentioned above. Ector County is always very conscious and extremely appreciative of the time and effort you must expend to submit an offer. We would

appreciate your indicating on the “Non-Response Notification” form any requirements to the bid which may have influenced your decisions to the non-response.

- B. A complete bid consists of the return of the Request for Bid (BID), signed by an authorized official, attachments, certifications, enclosures herein, properly and legibly executed, and responses to the technical section.
- C. **Addendum:** Any interpretation, corrections or changes to these specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the Ector County Purchasing Department. Addenda will issued through the eProcurement Portal.
- D. It is understood that Ector County reserves the right to accept or reject any/or all bids and to waive any technicalities as it shall deem to be in the best interest of Ector County. Receipt of any bid shall under no circumstances obligate Ector County to accept the lowest offer.
- E. **Late Bids:** Bids received in the Ector County Purchasing Office after submission deadline shall be returned unopened and will be considered void and unacceptable. Ector County is not responsible for unmarked bids; bids delivered to the wrong location, lateness of mail, carrier, etc., and time/date stamp clock in the Purchasing Office shall be the official time of receipt.
- F. **Deadline Extensions:** Ector County reserves the right to make a judgment call to extend any deadline. All deadline extensions will be posted as an addendum on the Ector County Purchasing Website. If there is an unforeseen event causing the County to close for business or delay opening, the submission deadline may be extended. If the unforeseen event causes delays in carrier service operation, the County may issue an addendum to extend the deadline.
- G. **Altering Bids:** Bids cannot be altered or amended after bid closing. Any alteration or erasure made before bid closing time must be initialed by signer of the bid, guaranteeing authenticity. After the due date, bids become the property of Ector County.
- H. No oral, no emails or facsimile bids will be considered.
- I. A bid may not be withdrawn for a period of ninety (90) days after bid closing and bidders so agree upon submittal of their bid.
- J. **Opening of Bids:** Bids will be received and publicly opened at the location, date and time stated in the Timeline. Bidders, their representatives, and interested persons may be present.
- K. **Confidentiality:** All information disclosed by Ector County to the successful bidder for the purpose of the work to be done or information that comes to the attention of the

successful bidder during the course of performing such work is to be kept strictly confidential. **Trade secrets and such confidential information contained in the bid and identified as such by the bidder shall not be disclosed at any time, unless required by law.**

- L. **Preparation of Response to Bids:** Bidders are required to submit a complete solicitation response that satisfies all the requirements. Each bid is required to address, with a written response, each requirement in all sections of the bid and in the same format and sequence as the details presented in this document. Any bid not conforming to the specifications may be rejected.
- M. **Contract:** This bid and submitted documents, when approved and accepted by the Commissioners Court of Ector County, shall constitute a contract equally binding between the successful bidder and Ector County. No different additional terms will become part of this contract with the exception of Change Order.
- N. **Change Order:** No oral statement of any person shall modify or otherwise change, or effect the terms, conditions, or specifications stated in the resulting contract. All Change Orders to the contract will be made in writing by the Purchasing Agent of Ector County.
- O. The fact that a manufacturer chooses not to produce equipment and/or provide services to meet these specifications will not be considered sufficient cause to adjudge these specifications as restrictive. Where deviations from the specifications contained herein are necessary, the bidder shall state why, in their opinion, the product and/or services they offer will render equivalent reliability and performance. Failure to detail all such deviations will comprise sufficient grounds for rejection of the bid.
- P. **Any catalog, brand name, or manufacturer's reference used is considered to be descriptive, not restrictive, and is indicative of the type and quality the County desires to purchase. Bids on equal items of like quality and performance will be considered if the bid is noted and fully descriptive brochures are enclosed. The County reserves the right to determine recognized and accepted equal substitutions. If notation of substitution is not made, it is assumed the bidder is proposing the items exactly as specified.**
- Q. **Any exceptions to the specifications shall be noted in the bid response.**
- R. **By submitting a bid, the bidder agrees to all specifications and conditions.**
- S. Items Invoiced will be by order unit of measure included in the specifications as applicable.
- T. **Sales Tax:** Ector County is by statute exempt from State Sales Tax; therefore, tax must not be included in this bid.

- U. Bidder must comply with all federal, state, County and local laws governing or covering this type of service.

2.3. GENERAL CONDITIONS

- A. During the performance of this bid, the bidder agrees not to discriminate against any employee or applicant for employment because of race, color, national origin, age, religion, gender, martial or veteran status, handicapping condition, or political belief.
- B. In setting forth these specifications, it is the desire of Ector County to offer equal opportunity to all bidders.
- C. Ector County requests that Respondents use the OpenGov software <https://www.co.ector.tx.us/page/ector.opengovbidsandproposals> in order to submit your response. However, the County will accept hard copies of responses. All sealed bids should be received by the Ector County Purchasing Agent, Attn: Lucy Soto 1010 E. 8th Street, Odessa, TX 79761 prior to the response deadline. If a Respondent chooses to submit a Hard Copy Bid, it must be delivered in a sealed envelope, with a return address and clearly marked "ROAD CONSTRUCTION MATERIAL TESTING (II)." The Respondent's firm name shall appear on the outside of the envelope.
- D. It is the responsibility of the bidder to familiarize themselves with the facilities, utilities, equipment, storage capabilities and/or dispensing equipment needs of the County in this bid.
- E. Items invoiced will be by order unit of measure included in the specifications.
- F. The County must be notified of any back order immediately after the order is placed.
- G. A service level of 98% must be maintained for all the bid items.

2.4. QUALIFICATION OF BIDDER

Bidder must, at the request of the County, furnish satisfactory evidence of their ability to furnish the product and/or services in accordance with these terms and conditions of the specifications. Only bidders who can demonstrate to the satisfaction of the County that they are authorized to sell the proposed items or provide the services requested will be considered.

2.5. PERIOD OF CONTRACT

- A. The successful bidder will be awarded a three (3) year contract for the firms' service starting of 8/27/2024 through 8/26/2027, with an option to renew for an additional three (3) year service period, by consent of both parties, in writing, at the same proposed rates and conditions.
- B. Ector County reserves the right to cancel this contract at any time by giving thirty (30) day prior written notification.

2.6. QUANTITIES

Quantities listed hereon are estimated, based on proposed requirements. It is specifically understood and agreed that these quantities are approximate and increased quantities will be paid

at the regular quoted unit price and the bidder shall not have any claim against the County for any quantities less than the estimated amount.

2.7. PUBLIC BID OPENING

Bids will be received and publicly opened at the location, date, and time posted in these specifications. Bidders, their representatives, and interested persons may be present. Trade secrets and such confidential information contained in the Bid and identified as such by the Bidder shall not be disclosed at any time unless required by law.

2.8. PRICING

- A. Requirements for the County will be ordered from multiple suppliers
- B. Pricing shall be FOB delivery points identified in these specifications. Additional charges for packaging, handling fees, etc., will not be allowed. All charges must be stated on bid.
- C. Unit prices shall be shown where required and where there is an error in the extension of price, the unit price shall govern.
- D. The County is by statute exempt from State Sales Tax therefore, the bid price shall not include tax.
- E. The bid prices must be good for ninety (90) days after the bid opening date.
- F. Items invoiced will be by order unit of measure included in the specifications.
- G. Pricing information as submitted by the successful bidder shall remain firm for the entire term and/or extensions of the bid. Price increases will not be allowed.

2.9. BASIS OF AWARD

- A. Ector County reserves the right to accept or reject any qualified bid or to reject any and all bids, and to waive minor informalities. Ector County is not liable for any costs incurred by the bidder in the preparation of a response to this bid.
- B. Ector County reserves the right to negotiate with any or all bidders, and also reserves the right to award a contract to other than the bidder submitting the lowest cost bid, without negotiations.
- C. Ector County reserves the right to award this contract to the bidder that demonstrates the best ability to fulfill the requirements and needs of Ector County
- D. The bid will be awarded on a total basis to one bidder considering all the requirements. Should Awarded Bidder not be able to commence or complete any project within the necessary project timeframe, the County may utilize the Second Low Bidder, subject to established approval procedures.
- E. An award may be granted with the successful bidder by purchase order or award letter.

- F. The successful bidder shall commence work only after the approval of a completely executed contract and/or the County's Master Service/Insurance requirements.

2.10. PROTESTS

Protests before award must be submitted in writing to the Purchasing Agent not later than six (6) calendar days before bid opening, and protests after award must be submitted within ten (10) calendar days after award by the Commissioners Court. The Purchasing Agent shall rule on the protest in writing within ten (10) calendar days after the date of receipt. Any appeal of the Purchasing Agent's decisions must be made within ten (10) calendar days after receipt and submitted to the Purchasing Agent, who shall present the matter for final resolution to the Commissioners Court and be afforded an opportunity to present evidence in support of their appeal. The appellant shall be notified of the time and place the appeal is to be heard by the Commissioners Court and be afforded an opportunity to present evidence in support of their appeal.

2.11. MASTER SERVICE AGREEMENT & INSURANCE REQUIREMENTS

The County reserves the right to award this Bid to the Bidder that demonstrates the best ability to fulfill the requirements and needs of Ector County. The successful Bidder shall commence work only after the approval of a completely executed Ector County Master Service Agreement and Insurance requirements.

2.12. VENDOR REFERENCE

The Bidder is required to provide at least three (3) references for a similar size and scope assignments completed in the past five years. Please give the client's name, contact details of the responsible staff (name, position, contact telephone, and email) and a brief description of the assignment completed, including the date when services were provided.

If it is necessary, Ector County may contact the references provided to request information on the quality of services delivered by your company.

3. **PURCHASE PROVISIONS**

3.1. RISK OF LOSS

Bidder shall bear the risk of loss of, or damage to, each item purchased until each item has been delivered to the location of installation or placement. Upon such delivery, all risk of loss of or damage to, each such item shall be borne by the bidder until inspected and accepted in writing by the participating County's authorized representative. Bidder agrees that it shall maintain adequate insurance on the items purchased until accepted as required herein.

3.2. FUNDING OUT CLAUSE

Any award pursuant to this bid shall be contingent on sufficient funding and authority being made available in the fiscal period by the appropriate officials of the County. If sufficient funding or authority is not made available, the bid and/or award shall become null and void.

3.3. RELATIONSHIP

The relationship between parties to this contract shall be that of independent contractors. Nothing contained in these specifications shall be interpreted or construed as establishing an agency or employer/employee relationship between the parties or between either party and the employees or representatives of the other party.

3.4. AUTHORIZED DISTRIBUTOR

Bidder hereby warrants that it is an authorized distributor and agrees that it has complete contractual responsibility and authority to sell the items being purchased.

3.5. DELIVERY AND SERVICE REQUIREMENTS

1. Delivery and/or Service shall be made by the bidder's representative.
2. Unless otherwise specified, all goods are to be shipped to each department. Title to the materials specified in the contract passes to the County on the date of acceptance of the items by the County.
3. All of the system support, supplies, and maintenance must be provided by the bidder. The services to be performed by the bidder shall not be assigned, sublet, or transferred without written approval of the Ector County Commissioners Court.
4. Bidder agrees to the delivery and/or service of the product to the locations of each County location involved.
5. The delivery and/or service of the product shall be considered a prime part of this contract. Failure to state delivery and service capabilities may cause the bid to be rejected.
6. Bidder agrees to be responsible for any loss or damages, or both, until materials have been delivered and accepted at destination.
7. Loss or damage discovered at time of delivery/install to the County shall be noted and reported to bidder promptly for a resolution. Loss or damage discovered after delivery/install to the County shall be promptly reported to the bidder. All claims for damages occurring in transit shall be filed by the bidder. The County shall not be responsible for filing of any damage claim and no payment for items will be made by the County until received in acceptable condition. The bidder agrees that any such loss or damage shall not release the bidder from any obligation hereunder.

3.6. WARRANTIES

- A. The bidder warrants and represents that the County shall acquire upon completion of payment, good and clear title, free and clear of all liens, and claims or encumbrances of any kind.
- B. The bidder warrants materials supplied under this contract to conform to the specifications herein, to be free from defects in material and workmanship, and are fit for the purpose for which such materials are ordinarily employed. The County and bidder agree that this contract does not exclude or in any way limit other warranties provided for in this contract by law.
- C. The bidder warrants that the services proposed to the County shall conform to the standards promulgated by the U.S. Department of Labor under the operational Safety and Health Act of 1970.
- D. The bidder agrees that the goods, equipment, supplies, and/or services furnished under this contract shall be covered by the most favorable commercial warranties offered by the bidder to the County of such goods, equipment, supplies, and/or services.
- E. The bidder shall not limit or exclude any express, written or implied warranties and any attempt to do so shall render this contract voidable at the option of the County.

3.7. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

In the event of any claim of suit against any County on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the bidder shall defend the County against any such suit or claim and hold the County harmless from any and all expenses, court costs, and attorney's fees in connection with such claim or suit. The bidder's contractor liability insurance shall cover the bidder's and County's obligations under this paragraph.

3.8. TERMINATION - The County may, subject to the provisions below, by written notice of default to the bidder, terminate the whole or any part of this project in any of the following circumstances:

- A. If the bidder fails to perform within the time specified herein or any extension thereof; or
- B. If the bidder fails to perform any of the provisions of this bid shall action constitute a breach of the project, in which case, Ector County, at its' discretion, may require corrective action within a period of 10 days (or such longer period as the County may authorize in writing), after receipt of notice from the County specifying such breach. Failure to make correction as required by the Ector County Commissioners Court shall constitute a default.
- C. Ector County reserves the right to terminate the project immediately in the event the successful bidder fails to perform in accordance with the accepted bid.

- D. Continuing non-performance of the bidder in terms of specifications shall be a basis for the termination of the project by the County.
- E. The termination notice shall state the reasons for cancellation of the project.
- F. Upon default by the bidder, Ector County may enforce the performance of their bid in any manner provided by law, and at its' discretion, may contract with another party with or without solicitation of bids or further negotiation.
- G. At a minimum, bidder shall be required to pay any difference in the cost of securing the products or services covered by this project from another source, plus reasonable administrative costs and attorney's fees.
- H. Ector County shall not pay for work, equipment, supplies, and/or services which are unsatisfactory.
- I. In the event the county terminates this project in whole or in part, as above provided, the County may procure, upon such terms and in such manner as the County may deem appropriate, service similar to those so terminated, and the bidder shall be liable for any excess costs for such similar items, provided that the bidder shall continue the performance for this project to the extent not terminated under the provisions of this paragraph.
- J. The County shall not be liable for any excess costs if the failure to perform the project arises out of causes beyond the control and without the fault or negligence of the bidder.
- K. The bidder, in accepting the project, agrees that the County shall not be liable for damages in the event that the County declares the bidder in default hereunder.
- L. The County reserves the absolute right to terminate the project in whole or in part at its' sole discretion with a 30 days written notice to the bidder.

3.9. TAXES

All fees due to bidder under this Bid are exclusive of any taxes legally imposed on the licensing, delivery or use of items purchased. All taxes including any sales, use or import taxes are the responsibility of and shall be paid by bidder. Bidder shall not include State of Texas limited sales excise and use taxes in their invoices or vouchers and statements of cost. The County is exempt from payment of such taxes and an exemption certificate can be furnished to the bidder if requested.

3.10. INVOICES

Invoices shall be mailed directly to:

- A. Ector County Auditor, 1010 E. 8th Street, Odessa, Texas, 79761
- B. A copy of the invoice shall be emailed to Public Works, jeffrey.avery@ectorcounty.gov, and amber.valles@ectorcountytx.gov.

C. The invoices shall show:

1. Name and address of bidder
2. Detailed breakdown of all charges for the services delivered stating any applicable period of time

D. Invoices shall be based on actual services rendered/products delivered.

E. In accordance with Chapter 2251 of the Texas Government Code, payment will be made after receipt and acceptance by the County of all completed services and receipt of a valid invoice.

3.11. PAYMENT

Payment(s) may be made to the bidder, shall be paid on a thirty (30) day term, after a copy of the itemized invoice is presented to the entity for their acceptance and approval. Original invoices will be processed after notification that receipt of merchandise and/or services have been made to the Entity's satisfaction, and invoiced according to be awarded pricing. Ector County will pay only after the items have been delivered to the County's satisfaction and acceptance, and invoiced according to the awarded pricing.

3.12. COUNTY USAGE OF INFORMATION

The information submitted by any bidder will be used by the County to evaluate the bidder's bid. The County reserves the right to use any other information which it obtains in order to evaluate submitted bids and to make the award.

3.13. STANDARDS OF PRODUCTS AND SERVICES

It is required that bidders respond to this solicitation with standard, currently available products and services that been in operation for a period of time greater than six (6) months. This approach will ensure that minimum time and effort is spent in developing new products should a bid be awarded and that the associated costs of such a bid will be as low as possible.

3.14. BIDDER INSPECTION

Bidder shall make the necessary inspections to familiarize themselves with all existing specifications of the conditions involving the County facility, and/or units, which may affect the performance of this contract. Failure on the part of the bidder to make an inspection and raise questions or clarification thereof, shall not be grounds for any adjustment to the contract price or the period of performance after award is made.

3.15. ERRORS AND OMISSION

Due care and diligence have been used in preparation of this bid, and it is believed to be substantially correct. However, the responsibility for determining the full extent of the exposure and the verification of all the information presented herein, shall rest solely with the bidder. Ector County its representatives shall not be responsible for errors or omissions in these specifications, nor for failure on the part of the bidder to determine the full extent of the exposure.

3.16. BID BOND

The Bid shall be accompanied by a Surety Bond, Certified Check, or Cashier's Check, in the amount of five percent (5%) of the total bid price. Bid bonds will be returned after the award of the bid. Upon the Bidders submittal of a Performance bond within thirty (30) calendar days following the notice of award, their Bid bond will be returned to them. In case of failure or refusal to do so within the time stated the bond submitted with the bid will be forfeited as liquidated damages.

3.17. PERFORMANCE BOND

Within thirty (30) days after notification of the awarded Bidder, the Bidder shall be required furnish a good and sufficient performance/payment bond in the amount of one hundred percent (100%) of the total bid price, payable to Ector County.

3.18. CORPORATE STRUCTURE

In case of change of corporate structure or loss of identity by assimilation or merger with other companies, this contract shall remain in effect and be binding on the successor company(ies).

4. GENERAL PROVISIONS**4.1. VENUE**

The obligations of the parties to this contract are performable in Odessa, Ector County, Texas, and if legal action is necessary to enforce the same, exclusive venue shall lie in Odessa, Ector County, Texas.

4.2. GOVERNING LAW

This contract shall be governed by and construed in accordance with the laws of and court decisions of the State of Texas.

4.3. LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this contract.

4.4. ASSIGNMENT

This contract cannot be assigned without the prior written consent signed by both parties.

4.5. COUNTERPARTS

This contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

4.6. CAPTIONS

The captions to the various clauses of this contract are for informational purposes only and shall not alter the substance of the terms and conditions of this contract.

4.7. SUCCESSORS AND ASSIGNS

This contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, and assigns, except as otherwise indicated in this contract, their assigns.

4.8. NON-DISCRIMINATORY POLICY

Bidder agrees that as to all of its programs and activities conducted on the subject premises, it shall comply fully with all Civil Rights Acts and specifically will not discriminate against any person on the basis of race, color, national origin, sex, or by reason of being handicapped.

4.9. COMPLIANCE WITH APPLICABLE LAWS

The contract is subject to all legal requirements in the local, state, and federal laws and the bidder agrees that it will comply with all applicable laws, regulations, and orders and rules of the City, County, State, and all other governmental agencies. Bidder agrees to obtain and bear the expense of any required permit or license.

4.10. INTEREST OF MEMBERS OF A COUNTY

No member of the governing body of the County and no other officer, employee, or agent of the County who exercises any functions or responsibilities in connection with the planning and carrying out of the business of the County, shall have any personal financial interest, direct or indirect, in this contract and the bidder shall take appropriate steps to assure compliance.

4.11. INTEREST OF OTHER LOCAL PUBLIC OFFICIALS

No member of the governing body of the Locality and no other public official of such Locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the business of the County, shall have any personal financial interest, direct or indirect, in this contract; and the bidder shall take appropriate steps to assure compliance.

4.12. ENTIRE CONTRACT

This contract including the conditions, specifications, required attachments and the bid which embodies the complete contract of the parties hereto, superseding all oral and written previous and contemporary contracts between the parties and relating to the matters in this contract, and expect as otherwise provided herein cannot be modified without prior written agreement of both parties to be attached to and made a part of this contract.

4.13. FORCE MAJEURE

Neither the participating County nor bidder shall be required to perform any term, condition, or agreement in this contract so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riots, floods, and any other cause not reasonably within the control of the County or bidder except as herein provided, and which by the exercise of due diligence, the County or bidder is unable, wholly or in part, to prevent or overcome.

4.14. INDEMNITY - LIABILITY

Bidder agrees to protect, defend, indemnify, and save the County, its officers, and employees harmless from and against all claims, demands, and causes of action of every kind and character, without limit and without regard to the cause or causes thereof, or the negligence of any party or parties, including the negligence of the County, its officers, and employees, whether such negligence be sole, joint, or concurrent, for injury to or death of any person or damage to any property, arising out of or in connection with the activities of the bidder.

4.15. INDEMNITY - DEFENSE

Bidder shall also indemnify, protect and save the County, its directors, officers, and employees harmless against any and all cost or expense of whatever kind of nature, including costs of litigation, attorney fees, and reasonable expenses in connection therewith whether or not such loss, injury, or damage shall be valid or groundless, and bidder shall be bound and obligated to assume the defense thereof, including any settlement negotiations, and shall pay, liquidate, discharge and satisfy any and all settlements, judgements, awards or expenses resulting from or arising out of such injuries, death or damages without reimbursement from the County. It is understood and agreed by bidder that in case the County, its officers, agents, employees, are made defendant in any suit or action and bidder fails or neglects to assume the defense thereof, after having been notified to do so by the County, that the County may compromise and settle or defend any such suit or action, the bidder shall be bound and obligated to reimburse the County for the amount expended by it in settling and compromising any such claim, or in the amount expended by the County in paying any judgement rendered therein, together with all reasonable attorney's fees incurred by the County by reason of its defense or settlement of such claims.

4.16. INDEMNITY - SUB CONTRACTORS

The bidder agrees that it will indemnify and save the County harmless from all claims growing out of the lawful demands of sub-contractors, laborers, workmen, mechanics, materialmen and furnisher of machinery and parts thereof, equipment, power, tools and all supplies including commissions, incurred in the furtherance of this contract by bidder. When so desired by the County, the bidder shall furnish satisfactory evidence that all obligations of the nature hereinafore designated have been paid, discharged or waived. If the bidder fails to do so, then the County

may at the option of the county either pay unpaid bills, of which the County has written notice, direct or withhold from the bidder's unpaid compensation a sum of money deemed reasonably sufficient to liquidate any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, and whereupon payments to the bidder shall be resumed in full, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the County, by either the bidder or its surety.

4.17. INDEMNITY - WORKERS COMPENSATION

Bidder agrees to be responsible for the Workers Compensation insurance on its employees. If any direct claim for Workers' Compensation benefits is asserted against the County by any of said employees or, in the event of death, by their personal representative(s) then upon written notice from the County, bidder shall undertake to defend the County against such claim(s) and shall indemnify and hold the County harmless from and against any such claim(s) to the extent of all benefits, cost of litigation, disbursements and attorneys' fees incurred in connection therewith.

4.18. INDEMNITY - GOVERNMENT REGULATION

In its performance of this contract, bidder shall comply with all applicable Local, State and Federal laws including but not limited to, the provisions of the Equal Employment Opportunity Act, American Disabilities Act and the Fair Labor Standards Act, and will indemnify and hold the County harmless from and against any claims, demands, suits, losses, damages, costs, and expenses arising out of any non-compliance or violation by bidder of any such laws.

4.19. REMEDIES

The rights and remedies of the County provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity under this contract including the right to specific performance and offset.

4.20. DISPUTES

Except as otherwise provided in this contract, during the period of performance of the contract, any dispute between the parties arising out of the performance of this contract which is not disposed of by contract shall be decided by the County, who shall reduce its decision to writing and mail or otherwise furnish a copy thereof to the bidder. The decision of the County shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the bidder mails or otherwise furnishes to the County a written appeal. The decision of the County, or its duly authorized representative for the determination of such appeals, shall be final and conclusive. Such appeals shall be final and conclusive subject to any legal remedy that may be available under the laws of the State of Texas to the aggrieved party to further review such

decision. In connection with any appeal of the County's decision under the paragraph, the bidder shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of dispute hereunder, the bidder shall proceed diligently with the performance of the contract and in accordance with the County's decision.

4.21. NON-WAIVER

Approval of the County shall not constitute nor be deemed a release of the responsibility and liability of the bidder, its employees, agents, or associates under the contract nor shall approval be deemed to be the assumption of such responsibility by the County.

4.22. PERMITS AND LICENSES

Bidder will maintain in effect during the term of this contract any and all Federal, State, and/or local licenses and permits which may be required of bidder generally.

4.23. MASTER SERVICE AGREEMENT (MSA)/INSURANCE

Awarded bidder must complete the attached MSA/Insurance and adhere to the insurance requirements for this project. The Insurance policy must show the Certificate Holder as Ector County. The Insurance policy must show exclusion added by endorsement as follows: "The certificate holder is named as Additional Insured on the General Liability policy. Waiver of subrogation are included on general liability and workers compensation policies in favor of Ector County". A copy of, an approved, MSA/Insurance form must be provided, and/or be on file with the Ector County Purchasing Department, prior to the bidder starts working on this project. The MSA and all Insurance policies are to be kept current during the time frame of this project.

4.24. DEBARMENT OR SUSPENSION

The County is prohibited from spending federal, state, and/or local funds with bidders who have been debarred or suspended. By confirmation on this specification, the bidder attests that their company is not debarred by any governmental entity.

4.25. NON-COLLUSION REQUIREMENT

The bidder declares, by signing and submitting a bid, that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited another bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, of that anyone shall refrain from proposing; that the bidder has not in any manner, directly or indirectly, sought by contract, communications, or conference with anyone to fix the bid price of the bidder of any other bidder, or to fix any overhead, profit or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any cooperation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

- A. No negotiations, decisions, or actions shall be initiated by any company as a result of any verbal discussion with any County Employee prior to the opening of responses to this invitation to bid.
- B. No Officer or employee of the County of Ector, and no other public or elected official, or employee, who may exercise any function or responsibilities in the review or approval of this undertaking shall have any personal or financial interest, direct or indirect, in any contract or negotiation process thereof. The above compliance request will be part of all County of Ector contracts for this service.

4.26. CONFLICT OF INTEREST QUESTIONNAIRE

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any bidder or person conducting business or wishing to conduct business with a County, complete a "Conflict of Interest Questionnaire". By law, this completed questionnaire must be filed with the County Clerk for the County of Ector. The Ector County Clerk's mailing address is 300 N. Grant, Room 111, Odessa, Texas, 79761. A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor. Any questions concerning this form should be addressed to the Texas Ethics Commission; 201 East 14th St., 10th Floor; P.O. Box 12070, Austin, Texas, 78711-2070; 1-800-325-8506; fax 512/463-5777; or web site www.ethics.tx.us.

4.27. DISCLOSURE ON INTERESTED PARTIES (FORM 1295) - REQUIRED ONLY BY AWARDED VENDOR

In compliance with Section 2252.908 of the Texas Government Code, Ector County Commissioners Court may not enter into a contract with a business entity as a result of acceptance or award of this solicitation unless the business entity submits a disclosure of interested parties form as required by this statute. Notification will be given to the business entity recommended for award upon which the business entity will be required to submit the completed form prior to award. A copy of this law is available at <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm>. The on-line form is available at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. The Definitions are included in Chapter 46, Ethics Commission Rules: <https://www.ethics.state.tx.us/tcc/1295-Info.htm>.

4.28. BOYCOTTING ENERGY COMPANIES - REQUIRED ONLY BY AWARDED VENDOR

The 87th Texas Legislature (2021) approved Senate Bill 13, that forbids a state agency and a political subdivision (which includes a County) to enter into any contracts and investments with a company for goods or services unless the contract contains a written verification from the that; (I) it does not boycott energy companies pursuant to Section 809.001 of the Texas Government Code; and (II) will not boycott energy companies during the term of the contract. This law is only applies to a contract that; (I) is between a governmental entity and a company with 10 or

more full-time employees; (II) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

4.29. DISCRIMINATION AGAINST FIREARM OR AMMUNITION INDUSTRIES - REQUIRED ONLY BY AWARDED VENDOR

The 87th Texas Legislature (2021) approved Senate Bill 19 that forbids a state agency and a political subdivision (which includes a County) to enter into any contracts and investments with a company for goods or services unless the contract contains a written verification from the company that; (I) it does not have a practice, policy guidance, or directive that discriminates against a firearm entity or firearm trade association pursuant to Section 2274.001 of the Texas Government Code; and (II) will not discriminate companies during the term of the contract. This law is only applies to a contract that; (I) is between a governmental entity and a company with 10 or more full-time employees; (II) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

4.30. PROHIBITION AGAINST BOYCOTTING OF ISRAEL - REQUIRED ONLY BY AWARDED VENDOR

Vendors/Contractors/Suppliers must be in compliance with the provisions of Chapter 2270 of the Texas Government Code which states a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and, (2) will not boycott Israel during the term of the contract. By submitting a signed response to an Ector County solicitation, the bidder is affirming compliance with Chapter 2270 of the Texas Government Code.

4.31. BUSINESS WITH FOREIGN TERRORIST ORGANIZATIONS - REQUIRED ONLY BY AWARDED VENDOR

Vendors/Contractors/Providers must be in compliance with the provisions of §2252.152 and §2252.153 of the Texas Government Code which states, in part, contracts with companies engaged in business with Iran, Sudan, or Foreign Terrorist Organizations are prohibited. A governmental entity may not enter into a contract with a company that is listed on the Comptroller of the State of Texas website identified under Section 806.051, Section 807.051 or Section 2253.253 which do business with Iran, Sudan or any Foreign Terrorist Organization. By submitting a signed response to an Ector County solicitation, the bidder is affirming compliance with provisions of §2252.152 and §2252.153 of the Texas Government Code.

5. **BID SPECIFICATIONS**

5.1. SUBMISSION INFORMATION

Ector County is requesting bids on ROAD CONSTRUCTION MATERIAL TESTING (II). Sealed or Electronic Bids addressed to Ector County Purchasing Agent, Lucy Soto will be received by 2:00 pmon Friday, August 16, 2024.

All bids should be received either electronically, or at the location below by the deadline. If Bidder chooses to submit a Hard copy, it must be delivered in a sealed envelope with a return address and clearly marked "ROAD CONSTRUCTION MATERIAL TESTING (II)" The Bidder's firm name shall appear on the outside of the envelope. Location for hard copy submittal is Ector County Purchasing Department, 1010 E 8th Street, Suite 110, Odessa, TX 79761.

Deadline for bid submission is 2:00 pm on Friday, August 16, 2024. Any bids received after bid closing time will not be accepted.

5.2. SCOPE OF WORK

The project consists of eligible firms that will operate as an extension of, and in complete cooperation with the Public Works Staff to provide Material Testing Services for 2024-2025 Capital Improvement Projects. Provide all services and reports related to inspection and coordination of testing for soils, flexible base, asphaltic concrete, concrete, and other materials typically used on Ector County projects. Frequency and scheduling to be as requested by client.

The inspector(s)/technician(s) will be expected to work independently and in conjunction with the Public Works staff under this contract and will report to the Public Works Department.

6. PRICING PROPOSAL**TESTING**

Line Item	Description	Unit of Measure	Unit Cost (as applicable)	Hourly Rate (as applicable)	No Bid
1	Excavate Test Pit	EACH			
2	Soils Proctors	EACH			
3	Moisture Density Test	EACH			
4	Gradation Tests	EACH			
5	Concrete Air Entrainment Tests	EACH			
6	Concrete Slump Tests	EACH			
7	Concrete Compressive Strength Tests (4 cylinders per set)	SET			

Line Item	Description	Unit of Measure	Unit Cost (as applicable)	Hourly Rate (as applicable)	No Bid
8	Asphalt Extraction/Gradation Test	EACH			
9	Asphaltic Binder Content	EACH			
10	Asphalt Density Tests	EACH			
11	Asphalt Thickness Tests	EACH			
12	Asphalt Marshall Mix Design	EACH			
13	Core Density & Length	EACH			
14	Superpave Specimens by gyratory	EACH			
15	Testing Technician Standby Time	HOUR			
16	Engineer Observation/Consultation & Report	HOUR			

7. VENDOR QUESTIONNAIRE

7.1. BID UPLOAD

Upload Bid Here (As applicable):

7.2. CONFIRMATION*

I hereby certify and that the items offered meets all of the requirements of the bid conditions and specifications and I hereby accept the provisions of the terms and conditions included in the bid specifications. I hereby certify the attached Bidder Affidavit, House Bill 89 and Senate Bill 252 forms.

☐ Please confirm

*Response required

7.3. AUTHORIZED REPRESENTATIVE*

Please download the below documents, complete, and upload.

- SIGNATURE PAGE (1).docx

*Response required

7.4. PROPOSER RESIDENCY CERTIFICATION*

Awarded vendor will be required to submit completed form.

- Proposer_Residency_Certific...

*Response required

7.5. CONFLICT OF INTEREST QUESTIONNAIRE*

Please download the below documents, complete, and upload.

- CIQ.pdf

*Response required

7.6. ECTOR COUNTY PROFESSIONAL REFERENCE SHEET*

Please download the below documents, complete, and upload.

- Reference_Page_(1).doc

*Response required

7.7. I CERTIFY AND ATTEST THAT MY COMPANY IS NOT DEBARRED BY ANY GOVERNMENTAL ENTITY*

☐ Yes

☐ No

*Response required

7.8. NON-COLLUSION REQUIREMENT*

The bidder declares, by signing and submitting a bid, that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited another bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, of that anyone shall refrain from proposing; that the bidder has not in any manner, directly or indirectly, sought by contract, communications, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any cooperation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

A. No negotiations, decisions, or actions shall be initiated by any company as a result of any verbal discussion with any County Employee prior to the opening of responses to this invitation to bid.

B. No Officer or employee of the County of Ector, and no other public or elected official, or

employee, who may exercise any function or responsibilities in the review or approval of this undertaking shall have any personal or financial interest, direct or indirect, in any contract or negotiation process thereof. The above compliance request will be part of all County of Ector contracts for this service.

☐ Please confirm

*Response required

7.9. MASTER SERVICE AGREEMENT- REQUIRED ONLY BY AWARDED VENDOR
Awarded vendor will be required to submit completed form.

- MSA - Very High Road Materi...

7.10. EXAMPLE - CERTIFICATE OF LIABILITY INSURANCE - REQUIRED ONLY BY AWARDED VENDOR

Awarded vendor will be required to submit completed form.

- ACORD Certificate of Insura...

7.11. CERTIFICATE OF INTERESTED PARTIES - FORM 1295 - REQUIRED ONLY BY AWARDED VENDOR

Awarded vendor will be required to submit completed 1295 form.

- Form 1295.docx

7.12. SENATE BILL 13 VERIFICATION - REQUIRED ONLY BY AWARDED VENDOR
Awarded vendor will be required to submit completed form.

- Senate Bill 13 Verification...

7.13. SENATE BILL 19 VERIFICATION - REQUIRED ONLY BY AWARDED VENDOR
Awarded vendor will be required to submit completed form.

- SENATE BILL 19 VERIFICATION...

7.14. HOUSE BILL 89 VERIFICATION - REQUIRED ONLY BY AWARDED VENDOR
Awarded vendor will be required to submit completed form.

- House Bill 89 Verification....

7.15. SENATE BILL 252 VERIFICATION - REQUIRED ONLY BY AWARDED VENDOR
Awarded vendor will be required to submit completed form.

- Senate Bill 252 Verificatio...



Ector County
1010 E. 8th Street
Odessa, Texas 79761

2024-RFP-038

ECTOR COUNTY COLISEUM CONCESSIONAIRE

**Ector County requests that Respondents use the OpenGov software
<https://www.co.ector.tx.us/page/ector.opengovbidsandproposals> in order to submit your
response.**

However, the County will accept hard copies of responses.
All sealed proposals should be received by the Ector County Purchasing Agent, Attn: Lucy Soto
1010 E. 8th Street, Odessa, TX 79761 prior to the response deadline. If a Respondent chooses to
submit a Hard Copy Proposal, it must be delivered in a sealed envelope, with a return address
and clearly marked "ECTOR COUNTY COLISEUM CONCESSIONAIRE." The Respondent's
firm name shall appear on the outside of the envelope.

See attached specifications and conditions

**ECTOR COUNTY COMMISSIONERS COURT RESERVES THE RIGHT TO ACCEPT OR
REJECT ANY RFP**

The mission of Ector County is to provide quality public service to its citizens in a timely,
efficient and courteous manner. Ector County strives to accomplish this objective while
maintaining fiscal responsibility and governmental accountability to safeguard the public trust.

The County of Ector does not discriminate on the basis of race, color, national origin, sex,
religion, age and disability in employment or the provision of services.

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ECTOR COUNTY COLISEUM CONCESSIONAIRE
2024-RFP-038

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If any of the above items are not included, you should immediately contact the Ector County Purchasing Department at (432) 498-4020 or at 1010 E. 8th Street, Room 110, Odessa, Texas, 79761 and request the missing information, or upon request e-mail lucy.soto@ectorcountytexas.gov; or on the Ector County website: <https://www.co.ector.tx.us/page/ector.Bids>.

Ector County assumes no responsibility for omissions or duplications because of the arrangement of the proposal documents conditions and/or specifications.

1. INTRODUCTION

1.1. TIMELINE

Specifications approved by Commissioners Court:	July 23, 2024
1st Advertisement:	July 27, 2024
2nd Advertisement:	August 3, 2024
Pre-Proposal Meeting (Non-Mandatory):	August 6, 2024, 2:00pm https://events.gcc.teams.microsoft.com/event/91262021-30b6-44bf-89c0-79986f0f5ebf@1f6cbbel-fc21-4e0e-b5d0-7fd701a3cdcc
Questions Due:	August 8, 2024, 5:00pm
Questions Answered:	August 12, 2024, 5:00pm
Proposal Due/Proposal Opening:	August 19, 2024, 2:00pm

1.2. SUMMARY

The Ector County Coliseum and Exhibition Center is seeking a Proposer/Vendor to enter into a contract for the Ector County Coliseum Concessionaire. Ector County is requesting proposals on ECTOR COUNTY COLISEUM CONCESSIONAIRE. Sealed or Electronic Proposals addressed to Ector County Purchasing Agent, Lucy Soto will be received by 2:00 pm on Monday, August 19, 2024. Any proposals received after proposal closing time will not be accepted.

All proposals should be received either electronically, or at the location below by the deadline. If the Proposer chooses to submit a Hard copy, it must be delivered in a sealed envelope with a return address and clearly marked "ECTOR COUNTY COLISEUM CONCESSIONAIRE" The Proposer's firm name shall appear on the outside of the envelope.

Deadline for proposal submission is 2:00 pm on Monday, August 19, 2024. Location for hard copy submittal is Ector County Purchasing Department, 1010 E 8th Street, Suite 110, Odessa, TX 79761.

1.3. BACKGROUND

The Ector County Coliseum is located at 4201 Andrews Hwy., Odessa, TX. At the corner of Texas Highway 385 and Highway 191.

It is a 42-acre entertainment facility located between Dallas and El Paso, in the heart of the Permian Basin. The complex is the number one meeting place for over 350,000 people in the area.

With the population, an 8,000 seat Coliseum, approximately 145,000 sq. ft. of exhibit space and over 2000 hotel rooms within 10 miles, the Ector County Coliseum is the perfect fit for an event. The versatile complex is host to a wide variety of events with include: concerts, conventions, rodeos, trade shows, festivals, ice shows, motor sports, Broadway shows, weddings, anniversaries and much, much more. No matter what the event of occasion calls for, our versatile entertainment and exhibition center is the right choice for an event.

The chart below are figures the Ector County Coliseum has generated in the past.

FISCAL YEAR 2022 - 2023 FIGURES

VENUE	FY 2022-2023 Attendance	FY 2022-2023 # of event days	FY 2022-2023 # of public concession event days
All Facilities	73,859	25	25
Coliseum	85,794	69	27
Building A	9,134	36	11
Building G	23,852	47	24
Barn B	2,874	7	2
Barn C	760	1	0
Barn D	8,866	17	9
Barn E	5,053	10	6
Grounds	17,949	19	0
TOTALS	228,141	231	104

FY 2022 - 2023 CONCESSION REVENUE TO THE COUNTY:

\$310,000.00 ANNUALLY

1.4. OPENGOV

Ector County Purchasing Department has transitioned to OpenGov Procurement for Contractor and Vendor registration, posting, bid submittals, bid receivals, quotes, and proposals for solicitations. Contractors/Vendors are strongly encouraged to register with OpenGov Procurement at <https://procurement.opengov.com/signup> to participate in active solicitations.

Should you need technical assistance with OpenGov, the following options are available:

Email: procurement-support@opengov.com

Phone: (855) 680-4747 8AM-8PM Monday-Friday

Web: <https://help.procurement.opengov.com>

1.5. PURCHASING

Any technical questions concerning product specifications and/or document preparation prior to the bid opening date should be directed to: Lucy Soto, Phone (432) 498-4020, Email lucy.soto@ectorcountytexas.gov or Dianna Navarrette, Phone (432) 498-4020, Email dianna.navarrette@ectorcountytexas.gov.

Department Head:

Lucy Soto CPPO, NIGP-CPP, CPPB

Purchasing Agent

Email: lucy.soto@ectorcountytexas.gov

Phone: (432) 498-4020

2. GENERAL CONDITIONS

The Ector County Commissioner's Court is requesting Proposals from qualified vendors to ECTOR COUNTY COLISEUM CONCESSIONAIRE in accordance with the requirements specified herein and including all provisions set forth in the accompanying documentation.

2.1. PURPOSE

The purpose of these specifications is to provide sufficient information to allow proposers the opportunity to propose on the requirements for an ECTOR COUNTY COLISEUM CONCESSIONAIRE.

2.2. PROPOSAL INSTRUCTIONS

- A. A complete proposal consists of the return of the Request for Proposal (RFP), signed by an authorized official, attachments, certifications, enclosures herein, properly and legibly executed, and responses to the technical section.

- B. **Addendum:** Any interpretation, corrections or changes to these specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the Ector County Purchasing Department. Addenda will issued through the eProcurement Portal.
- C. It is understood that Ector County reserves the right to accept or reject any/or all proposals and to waive any technicalities as it shall deem to be in the best interest of Ector County. Receipt of any proposal shall under no circumstances obligate Ector County to accept the lowest offer.
- D. **Late Proposals:** Proposals received in the Ector County Purchasing Office after submission deadline shall be returned unopened and will be considered void and unacceptable. Ector County is not responsible for unmarked proposals; proposals delivered to the wrong location, lateness of mail, carrier, etc., and time/date stamp clock in the Purchasing Office shall be the official time of receipt.
- E. **Deadline Extensions:** Ector County reserves the right to make a judgment call to extend any deadline. All deadline extensions will be posted as an addendum on the Ector County Purchasing website. If there is an unforeseen event causing the County to close for business or delay opening, the submission deadline may be extended. If the unforeseen event causes delays in carrier service operation, the County may issue an addendum to extend the deadline.
- F. **Altering Proposals:** Proposals cannot be altered or amended after proposal closing. Any alteration or erasure made before proposal closing time must be initialed by signer of the proposal, guaranteeing authenticity. After the due date, proposals become the property of Ector County.
- G. No oral, no email, or facsimile proposals will be considered.
- H. A proposal may not be withdrawn for a period of ninety (90) days after proposal closing and proposers so agree upon submittal of their proposal.
- I. **Opening of Proposals:** Proposals will be received and publicly opened at the location, date and time stated in the Timeline. Proposers, their representatives, and interested persons may be present.
- J. **Confidentiality:** All information disclosed by Ector County to the successful proposer for the purpose of the work to be done or information that comes to the attention of the successful proposer during the course of performing such work is to be kept strictly confidential. **Trade secrets and such confidential information contained in the proposal and identified as such by the proposer shall not be disclosed at any time, unless required by law.**

- K. **Preparation of Response to Proposal:** Proposers are required to submit a complete solution that satisfies all requirements. Each proposal is required to address, with a written response, each requirement in all sections of the bid and in the same format and sequence as the details presented in this document. Any proposal not conforming to the specifications may be rejected.
- L. **Contract:** This proposal and submitted documents, when properly accepted by Ector County shall constitute a contract equally binding between the successful proposer and Ector County. No different additional terms will become part of this contract with the exception of a Change Order.
- M. **Change Order:** No oral statement of any person shall modify or otherwise change, or effect the terms, conditions or specifications stated in the resulting contract. All change orders to the contract will be made in writing by the Purchasing Agent of Ector County.
- N. The fact that a manufacturer chooses not to produce equipment and/or provide services to meet these specifications will not be considered sufficient cause to adjudge these specifications as restrictive. Where deviations from the specifications contained herein are necessary, the proposer shall state why, in their opinion, the product and/or services they offer will render equivalent reliability and performance. Failure to detail all such deviations will comprise sufficient grounds for rejection of proposal.
- O. **Any catalog, brand name or manufacturer's reference used is considered to be descriptive, not restrictive, and is indicative of the type and quality the County desires to purchase. Proposals on equal items of like quality will be considered if the proposal is noted and fully descriptive brochures are enclosed. The County reserves the right to determine recognized and accepted equal substitutions. If notation of substitution is not made, it is assumed proposer is proposing on the item exactly as specified.**
- P. **Any exceptions to the specifications shall be noted in the proposal response.**
- Q. **By submitting a proposal, the proposer agrees to all specifications and conditions.**
- R. Items Invoiced will be by order unit of measure included in the specifications as applicable.
- S. **Sales Tax:** Ector County is by statute exempt from State Sales Tax; therefore, tax must not be included in this bid.
- T. Proposer must comply with all federal, state, County and local laws governing or covering this type of service.

2.3. GENERAL CONDITIONS

- A. During the performance of this proposal, the proposer agrees not to discriminate against any employee or applicant for employment because of race, color, national origin, age, religion, gender, martial or veteran status, handicapping condition, or political belief.
- B. In setting forth these specifications, it is the desire of Ector County to offer equal opportunity to all proposers.
- C. Ector County requests that Respondents use the OpenGov software <https://www.co.ector.tx.us/page/ector.opengovbidsandproposals> in order to submit your response. However, the County will accept hard copies of responses. All sealed proposals should be received by the Ector County Purchasing Agent, Attn: Procurement Contact Full Name 1010 E. 8th Street, Odessa, TX 79761 prior to the response deadline. If a Respondent chooses to submit a Hard Copy Proposal, it must be delivered in a sealed envelope, with a return address and clearly marked " Project Title." The Respondent's firm name shall appear on the outside of the envelope.
- D. It is the responsibility of the proposer to familiarize themselves with the facilities, utilities, equipment, storage capabilities and/or dispensing equipment needs of the County in this proposal.
- E. Items invoiced will be by order unit of measure included in the specifications.
- F. The County must be notified of any back order immediately after the order is placed.
- G. A service level of 98% must be maintained for all the proposal items.
- H. All items provided shall be new in first class condition, and packaged in containers suitable for damage free transport and storage.

2.4. QUALIFICATION OF PROPOSER

Proposer must, at the request of the County, furnish satisfactory evidence of their ability to furnish the product and/or services in accordance with the terms and conditions of the specifications. Only proposers who can demonstrate to the satisfaction of the County that they are authorized to sell the proposed items or provide the services requested will be considered.

2.5. PERIOD OF CONTRACT

- A. The successful proposer will be awarded a five (5) year contract for the firms' service starting of 10/01/2024, with an option to renew for an additional Five (5) year extension option, not to exceed 10 (ten) total years service period, by consent of both parties, in writing, at the same proposed rates and conditions.
- B. Ector County reserves the right to cancel this contract at any time by giving thirty (30) day prior written notification.

2.6. QUANTITIES

Quantities listed hereon are estimated, based on proposed requirements. It is specifically understood and agreed that these quantities are approximate and increased quantities will be paid

at the regular quoted unit price and the proposer shall not have any claim against the County for any quantities less than the estimated amount.

2.7. PUBLIC PROPOSAL OPENING

Proposals will be received and publicly opened at the location, date, and time posted in these specifications. Proposers, their representatives, and interested persons may be present. Trade secrets and such confidential information contained in the proposal and identified as such by the proposer shall not be disclosed at any time unless required by law.

2.8. PRICING

- A. Requirements for the County will be ordered from a single supplier. Proposers shall price their proposal accordingly.
- B. Pricing shall be FOB delivery points identified in these specifications. Additional charges for packaging, handling fees, etc., will not be allowed. All charges must be stated on proposal.
- C. Unit prices shall be shown where required and where there is an error in the extension of price, the unit price shall govern.
- D. The County is by statute exempt from State Sales Tax therefore, the proposal price shall not include tax.
- E. The proposal prices must be good for ninety (90) days after the proposal opening date.
- F. Items invoiced will be by order unit of measure included in the specifications.
- G. Pricing information as submitted by the successful proposer shall remain firm for the entire term and/or extensions of the proposal. Price increases will not be allowed.

2.9. BASIS OF AWARD

- A. Ector County reserves the right to accept or reject any qualified proposal or to reject any and all proposals, and to waive minor informalities. Ector County is not liable for any costs incurred by the proposer in the preparation of a response to this proposal.
- B. Ector County reserves the right to negotiate with any or all proposers, and also reserves the right to award a contract to other than the proposer submitting the lowest cost proposal, without negotiations.
- C. Ector County reserves the right to award this contract to the proposer that demonstrates the best ability to fulfill the requirements and needs of Ector County
- D. The proposal will be awarded on a total basis to a single proposer considering all the requirements.
- E. An award may be granted with the successful proposer by purchase order or award letter.

- F. The successful proposer shall commence work only after the approval of a completely executed contract and/or the County's Master Service/Insurance requirements.

2.10. EVALUATION CRITERIA

Evaluation Criteria: Evaluation Criteria shall include, but not limited to, the following items. Responses which are judged to be insufficient may disqualify the proposer.

Total Service Points

40 – Total Economic Value

25 - Quality of Program

20 - Transition and Reporting Plan

10 - Minimum of Qualification

5 - References

100 Total Points

2.11. PROTESTS

Protests before award must be submitted in writing to the Purchasing Agent no later than six (6) calendar days before proposal opening, and protests after award must be submitted within ten (10) calendar days after award by the Commissioners Court. The Purchasing Agent shall rule on the protest in writing within ten (10) calendar days after date of receipt. Any appeal of the Purchasing Agent's decision must be made within in ten (10) calendar days after receipt and submitted to the Purchasing Agent, who shall present the matter for final resolution to the Commissioners Court. The appellant shall be notified of the time and place the appeal is to be heard by the Commissioners Court and be afforded an opportunity to present evidence in support of their appeal.

2.12. MASTER SERVICE AGREEMENT & INSURANCE REQUIREMENTS

The County reserves the right to award this proposal to the proposer that demonstrates the best ability to fulfill the requirements and needs of Ector County. The successful proposer shall commence work only after the approval of a completely executed Ector County Master Service Agreement and Insurance requirements.

2.13. VENDOR REFERENCE

The proposer is required to provide at least three (3) references for a similar size and scope assignments completed in the past five years. Please give the client's name, contact details of the responsible staff (name, position, contact telephone, and email) and a brief description of the assignment completed, including the date when services were provided. If it is necessary, Ector County may contact the references provided to request information on the quality of services delivered by your company.

3. PURCHASE PROVISIONS

3.1. RISK OF LOSS

Proposer shall bear the risk of loss of, or damage to, each item purchased until each item has been delivered to the location of installation or placement. Upon such delivery all risk of loss of, or damage to, each such item shall be borne by the proposer until inspected and accepted in writing by an authorized representative of the County. Proposer agrees that it shall maintain adequate insurance on the items purchased until accepted as required herein.

3.2. FUNDING OUT CLAUSE

Any award pursuant to this proposal shall be contingent on sufficient funding and authority being made available in the fiscal period by the appropriate officials of the County. If sufficient funding or authority is not made available, the proposal and/or award shall become null and void.

3.3. RELATIONSHIP

The relationship between the parties to this proposal shall be that of independent contractors. Nothing contained herein shall be interpreted or construed as establishing an agency or employer/employee relationship between the parties or between either party and the employees or representatives of the other party.

3.4. AUTHORIZED DISTRIBUTOR

Proposer hereby warrants that it is an authorized distributor and agrees that it has complete contractual responsibility and authority to sell the items being purchased.

3.5. DELIVERY AND SERVICE REQUIREMENTS

- A. Delivery and/or Service shall be made by proposer's representative.
- B. Unless otherwise specified, all goods are to be shipped to each department. Title to the materials specified in the contract passes to the County on the date of acceptance of the items by the County.
- C. All of the system support, supplies, and maintenance must be provided by the proposer. The services to be performed by the proposer shall not be assigned, sublet, or transferred without written approval of the Ector County Commissioners Court.
- D. Proposer agrees to the delivery and/or service of the product to the locations of each County location involved.
- E. The delivery and/or service of the product shall be considered a prime part of this contract. Failure to state delivery and service capabilities may cause the proposal to be rejected.
- F. Proposer agrees to be responsible for any loss or damages, or both, until materials have been delivered and accepted at destination.

- G. Loss or damage discovered at time of delivery/install to the County shall be noted and reported to proposer promptly for a resolution. Loss or damage discovered after delivery/install to the County shall be promptly reported to the proposer. All claims for damages occurring in transit shall be filed by the proposer. The County shall not be responsible for filing of any damage claim and no payment for items will be made by the County until received in acceptable condition. The proposer agrees that any such loss or damage shall not release the proposer from any obligation hereunder.

3.6. WARRANTIES

- A. The proposer warrants and represents that the County shall acquire upon completion of payment good and clear title, free and clear of all liens, claims or encumbrances of any kind.
- B. The proposer warrants materials supplied under this proposal conform to the specifications herein, to be free from defects in material and workmanship, and are fit for the purpose for which such materials are ordinarily employed. The County and proposer agree that this proposal does not exclude or in any way limit other warranties provided for in this proposal by law.
- C. The proposer warrants that the services proposed to the County shall conform to the standards promulgated by the U.S. Department of Labor under the operational Safety and Health Act of 1970.
- D. The proposer agrees that the goods, equipment, supplies, and/or services furnished under this contract shall be covered by the most favorable commercial warranties offered by the proposer to the County of such goods, equipment, supplies, and/or services.
- E. The proposer shall not limit or exclude any express, written or implied warranties and any attempt to do so shall render this contract voidable at the option of the County.

3.7. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

In the event of any claim or suit against the County on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the proposer shall defend the County against any such suit or claim and hold the County harmless from any and all expenses, court costs and attorney's fees in connection with such claim or suit. The proposer's liability insurance shall cover the proposer's and County's obligations under this paragraph.

- 3.8. **TERMINATION** - The County may, subject to the provisions below, by written notice of default to the proposer, terminate the whole or any part of this project in any of the following circumstances:
- A. If the proposer fails to perform within the time specified herein or any extension thereof;
or
 - B. If the proposer fails to perform any of the provisions of this proposal shall constitute a breach of contract, in which case, the County, at its discretion, may require corrective action within a period of five (5) days (or such longer period as the County may authorize in writing), after receipt of notice from the County specifying such breach. Failure to make correction as required by the County shall constitute a default. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the proposer under this contract shall, at the option of the County, become its property and the proposer shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.
 - C. Notwithstanding the above, the proposer shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the contract by the proposer, and the County may withhold any payments to the proposer for the purpose of set-off until such time as the exact amount of damages due the County from the proposer is determined.
 - D. The County reserves the right to terminate the contract immediately in the event the successful proposer fails to perform in accordance with the accepted proposal.
 - E. Continuing non-performance of the proposer in terms of specifications shall be a basis for the termination of the contract by the County.
 - F. The termination notice shall state the reasons for cancellation of contract.
 - G. Upon default by the proposer, the County may enforce the performance of their contract in any manner provided by law, and at its option, may contact with another party with or without solicitation of proposals or further negotiation.
 - H. At a minimum, proposer shall be required to pay any difference in the cost of securing the services covered by this contract from another source, plus reasonable administrative costs and attorney's fees.
 - I. In the event the County terminates this contract in whole or in part, as above provided, the County may procure, upon such terms and in such manner as the County may deem appropriate, services similar to those so terminated, and the proposer shall be liable for any excess costs for such similar services, provided that the proposer shall continue the

performance of this contract to the extent not terminated under the provisions of this RFP.

- J. The County shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the proposer.
- K. The proposer, in accepting the contract, agrees that the County shall not be liable for damages in the event that Ector County declares the proposer in default hereunder.
- L. The County reserves the absolute right to terminate the contract in whole or in part at its sole discretion on ten (10) days written notice to the proposer.

3.9. TAXES

All fees due to proposer under this Proposal are exclusive of any taxes legally imposed on the licensing, delivery or use of items purchased. All taxes including any sales, use or import taxes are the responsibility of and shall be paid by proposer. Proposer shall not include State of Texas limited sales excise and use taxes in their invoices or vouchers and statements of cost. The County is exempt from payment of such taxes and an exemption certificate can be furnished to the proposer if requested.

3.10. INVOICES

Invoices should be mailed directly to:

- A. Ector County Auditor, 1010 E. 8th Street, Odessa, Texas, 79761
- B. The invoices shall show:
 - 1. Name and address of proposer
 - 2. Detailed breakdown of all charges for the services delivered stating any applicable period of time
- C. Invoices shall be based on actual services rendered/products delivered.
- D. In accordance with Chapter 2251 of the Texas Government Code, payment will be made after receipt and acceptance by the County of all completed services and receipt of a valid invoice.

3.11. PAYMENT

Payment(s) may be made to the proposer, shall be paid on a thirty (30) day term, after a copy of the itemized invoice is presented to the entity for their acceptance and approval. Original invoices will be processed after notification that receipt of merchandise and/or services have been made to the Entity's satisfaction, and invoiced according to be awarded pricing. Ector County will pay only after the items have been delivered to the County's satisfaction and acceptance, and invoiced according to the awarded pricing.

3.12. COUNTY USAGE OF ALL INFORMATION

The information submitted by any proposer will be used by the County to evaluate their proposal. The County reserves the right to use any other information which it obtains in order to evaluate the proposals and to make the award.

3.13. STANDARDS OF PRODUCTS AND SERVICES

It is required that proposers respond to this proposal with standard, currently available products and services that have been in operation for a period greater than six (6) months. This approach will ensure that minimum time and effort is spent in developing new products should a proposal be awarded and that the associated cost of such a proposal will be as low as possible.

3.14. PROPOSER INSPECTION

Proposer shall make the necessary inspections to familiarize themselves with all existing conditions involving the County facility and/or units, which may affect the performance of this proposal. Failure on the part of the proposer to make an inspection and raise questions or clarification thereof, shall not be grounds for any adjustment to the proposal price or the period of performance after award is made. Site visits will be facilitated through Aaron Martin, who can be contacted at aaron.martin@ectorcountytexas.gov or 432-366-3541.

3.15. ERRORS OR OMISSIONS

Due care and diligence have been used in preparation of this proposal, and it is believed to be substantially correct. However, the responsibility for determining the full extent of the exposure and the verification of all the information presented herein, shall rest solely with the proposer. Ector County and its representatives shall not be responsible for errors or omissions in these specifications, nor for failure on the part of the proposer to determine the full extent of the exposure.

3.16. CORPORATE STRUCTURE

In case of change of corporate structure or loss of identity by assimilation or merger with other companies, this contract shall remain in effect and be binding on the successor company(ies).

4. GENERAL PROVISIONS

4.1. VENUE

The obligations of the parties to this proposal are performable in Ector County, Odessa, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Ector County, Odessa, Texas.

4.2. GOVERNING LAW

This proposal shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

4.3. LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this proposal shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this contract.

4.4. ASSIGNMENT

This proposal cannot be assigned without the prior written consent signed by both parties.

4.5. COUNTERPARTS

This proposal may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

4.6. CAPTIONS

The captions to the various clauses of this proposal are for informational purposes only and shall not alter the substance of the terms and conditions of this proposal.

4.7. SUCCESSORS AND ASSIGNS

This proposal shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, assigns and except as otherwise provided in this proposal, their assigns.

4.8. NON-DISCRIMINATORY POLICY

Proposer agrees that as to all of its programs and activities conducted on the subject premises; it shall comply fully with all Civil Rights Acts and specifically will not discriminate against any person on the basis of race, color, national origin, sex or by reason of being handicapped.

4.9. COMPLIANCE WITH APPLICABLE LAWS

The proposal is subject to all legal requirements of local, state, and federal laws and proposer agrees that it promptly will comply with all applicable laws, regulations, orders and rules of City, County, State, and all other governmental agencies. Proposer agrees to obtain and bear the expense of any required permit or license.

4.10. INTEREST OF MEMBERS OF A COUNTY

No member of the governing body of the County and no other officer, employee, or agent of the County who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this contract and the proposer shall take appropriate steps to assure compliance.

4.11. INTEREST OF OTHER LOCAL PUBLIC OFFICIALS

No member of the governing body of the County and no other public official of the County, who exercises any functions or responsibilities in connection with the planning and carrying out of the

program, shall have any personal financial interest, direct or indirect, in this contract; and the proposer shall take appropriate steps to assure compliance.

4.12. ENTIRE CONTRACT

This contract including the conditions, specifications, required attachments and the proposal which embodies the complete contract of the parties hereto, superseding all oral or written previous and contemporary contracts between the parties and relating to matters in this contract, and except as otherwise provided herein cannot be modified without prior written agreement of both parties to be attached to and made a part of this contract.

4.13. FORCE MAJEURE

Neither the County nor the proposer shall be required to perform any term, condition or covenant in this contract so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riots, floods and any other cause not reasonably within the control of County or proposer except as herein provided, and which by the exercise of due diligence County or proposer is unable, wholly or in part, to prevent or overcome.

4.14. INDEMNITY-LIABILITY

The proposer agrees to protect, defend, indemnify and save the County, its officers and employees harmless from and against all claims, demands and causes of action of every kind and character, losses, costs, expenses, attorney's fees and damages of every kind and character, without limit and without regard to the cause of causes thereof, or the negligence of any party or parties, including the negligence of the County, its officers and employees, whether such negligence be sole, joint or concurrent, for injury to or death of any person or damage to any property, arising out of or in connection with the activities of the proposer.

4.15. INDEMNITY-DEFENSE

The proposer shall also indemnify, protect and save the County, its officers and employees harmless against any and all cost or expense of whatever kind of nature, including costs of litigation, attorney fees and reasonable expenses in connection therewith whether or not such loss, injury, or damage shall be valid or groundless, and proposer shall be bound and obligated to assume the defense thereof, including any settlement negotiations, and shall pay, liquidate, discharge and satisfy any and all settlements, judgments, awards or expenses resulting from or arising out of such injuries, death or damages without reimbursement from the County. It is understood and agreed by the proposer that in case the County, its officers, agents, and/or employees, are made defendant in any suit or action and the proposer fails or neglects to assume the defense thereof, after having been notified so to do so by the County, that the County may compromise and settle or defend any such suit or action, the proposer shall be bound and obligated to reimburse the County for the amount expended by it in settling and compromising any such claim, or in the amount expended by the County in paying any judgment rendered therein, together with all reasonable attorney's fees incurred by the County by reason of its defense or settlement of such claim.

4.16. INDEMNITY-SUB-CONTRACTORS

The proposer agrees that it will indemnify and save the County harmless from all claims growing out of the lawful demands of sub-contractors, laborers, workmen, mechanics, material men and furnishers of machinery and parts thereof, equipment, power, tools, and all supplies including commissions, incurred in the furtherance of this contract by the proposer. When so desired by the County, the proposer shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived. If the proposer fails to do so, then the County may at the option of the proposer either pays unpaid bills, of which the County has written notice, direct or withhold from the proposer's unpaid compensation a sum of money deemed reasonably sufficient to liquidate any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, and whereupon payments to the proposer shall be resumed in full, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the County, by either the proposer or its surety.

4.17. INDEMNITY-WORKERS COMPENSATION

The proposer agrees to be responsible for the Workers' Compensation insurance on its employees. If any direct claim for Workers' Compensation benefits is asserted against the County by any of said employees or, in the event of death, by their personal representative(s) then upon written notice from the County, the proposer shall undertake to defend the County against such claim(s) and shall indemnify and hold the County harmless from and against any such claim(s) to the extent of all benefits, cost of litigation, disbursements and attorneys' fees incurred in connection therewith.

4.18. INDEMNITY - GOVERNMENT REGULATION

In its performance of this Contract, proposer shall comply with all applicable Local, State and Federal laws including, but not limited to, the provisions of the Equal Employment Opportunity Act, American Disabilities Act and the Fair Labor Standards Act, and will indemnify and hold the County harmless from and against any claim, demands, suits, losses, damages, costs and expenses arising out of any non-compliance violation by the proposer of any such laws.

4.19. REMEDIES

The rights and remedies of the County provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity under this proposal including the right to specific performance and offset.

4.20. DISPUTES

Except as otherwise provided in this proposal, during the period of performance of the proposal, any dispute between the parties arising out of the performance of this proposal which is not disposed of by contract shall be decided by the County, who shall reduce its decision to writing and mail or otherwise furnish a copy thereof to the proposer. The decision of the County shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the proposer mails or otherwise furnishes to the County a written appeal. The decision of the

County, or its duly authorized representative for the determination of such appeals shall be final and conclusive. Such appeals shall be final and conclusive subject to any legal remedy that may be available under the laws of the State of Texas to the aggrieved party to further review such decision. In connection with any appeal of the County's decision under the paragraph, the proposer shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of dispute hereunder, the proposer shall proceed diligently with the performance of the contract and in accordance with the County's decision.

4.21. NON-WAIVER

Approval of the County shall not constitute nor be deemed a release of the responsibility and liability of the proposer, its employees, agents or associates under the contract nor shall approval be deemed to be the assumption of such responsibility by the County.

4.22. PERMITS AND LICENSES

The proposer will maintain in effect during the term of this Contract any and all Federal, State and/or local licenses and permits which may be required of the proposer generally.

4.23. MASTER SERVICE AGREEMENT (MSA)/INSURANCE

Awarded proposer must complete the attached MSA/Insurance and adhere to the insurance requirements for this project. The Insurance policy must show the Certificate Holder as Ector County. The Insurance policy must show exclusion added by endorsement as follows: "The certificate holder is named as Additional Insured on the General Liability policy. Waiver of subrogation are included on general liability and workers compensation policies in favor of Ector County". A copy of, an approved, MSA/Insurance form must be provided, and/or be on file with the Ector County Purchasing Department, prior to the proposer starts working on this project. The MSA and all Insurance policies are to be kept current during the time frame of this project.

4.24. DEBARMENT OR SUSPENSION

The County is prohibited from spending federal, state, and/or local funds with bidders who have been debarred or suspended. By confirmation on this specification, the proposer attests that their company is not debarred by any governmental entity.

4.25. NON-COLLUSION REQUIREMENT

The proposer declares, by signing and submitting a proposal, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited another proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, of that anyone shall refrain from proposing; that the proposer has not in any manner, directly or indirectly, sought by contract, communications, or conference with anyone to fix the proposal price of the proposer or any other proposer, or to fix any overhead, profit or cost element of the proposal price, or of that of any other proposer, or to secure any advantage against the public body awarding the contract of

anyone interested in the proposed contract; that all statements contained in the proposal are true; and further, that the proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any cooperation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

- A. No negotiations, decisions, or actions shall be initiated by any company as a result of any verbal discussion with any County Employee prior to the opening of responses to this request for proposal.
- B. No Officer or employee of the County of Ector, and no other public or elected official, or employee, who may exercise any function or responsibilities in the review or approval of this undertaking shall have any personal or financial interest, direct or indirect, in any contract or negotiation process thereof. The above compliance request will be part of all County of Ector contracts for this service.

4.26. CONFLICT OF INTEREST QUESTIONNAIRE

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any proposer or person conducting business or wishing to conduct business with a County, complete a "Conflict of Interest Questionnaire". By law, this completed questionnaire must be filed with the County Clerk for the County of Ector. The Ector County Clerk's mailing address is 300 N. Grant, Room 111, Odessa, Texas, 79761. A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor. Any questions concerning this form should be addressed to the Texas Ethics Commission; 201 East 14th St., 10th Floor; P.O. Box 12070, Austin, Texas, 78711-2070; 1-800-325-8506; fax 512/463-5777; or web site www.ethics.tx.us.

4.27. DISCRIMINATION AGAINST FIREARM OR AMMUNITION INDUSTRIES - REQUIRED BY AWARDED VENDOR

In compliance with Section 2252.908 of the Texas Government Code, Ector County Commissioners Court may not enter into a contract with a business entity as a result of acceptance or award of this solicitation unless the business entity submits a disclosure of interested parties form as required by this statute. Notification will be given to the business entity recommended for award upon which the business entity will be required to submit the completed form prior to award. A copy of this law is available at <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm>. The on-line form is available at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. The Definitions are included in Chapter 46, Ethics Commission Rules: <https://www.ethics.state.tx.us/tec/1295-Info.htm>.

4.28. BOYCOTTING ENERGY COMPANIES - REQUIRED ONLY BY AWARDED VENDOR

The 87th Texas Legislature (2021) approved Senate Bill 13, that forbids a state agency and a political subdivision (which includes a County) to enter into any contracts and investments with a company for goods or services unless the contract contains a written verification from the that; (I) it does not boycott energy companies pursuant to Section 809.001 of the Texas Government Code; and (II) will not boycott energy companies during the term of the contract. This law is only applies to a contract that; (I) is between a governmental entity and a company with 10 or more full-time employees; (II) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

4.29. DISCRIMINATION AGAINST FIREARM OR AMMUNITION INDUSTRIES - REQUIRED BY AWARDED VENDOR

The 87th Texas Legislature (2021) approved Senate Bill 19 that forbids a state agency and a political subdivision (which includes a County) to enter into any contracts and investments with a company for goods or services unless the contract contains a written verification from the company that; (I) it does not have a practice, policy guidance, or directive that discriminates against a firearm entity or firearm trade association pursuant to Section 2274.001 of the Texas Government Code; and (II) will not discriminate companies during the term of the contract. This law is only applies to a contract that; (I) is between a governmental entity and a company with 10 or more full-time employees; (II) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

4.30. PROHIBITION AGAINST BOYCOTTING OF ISRAEL-REQUIRED ONLY BY AWARDED VENDOR

Vendors/Contractors/Suppliers must be in compliance with the provisions of Chapter 2270 of the Texas Government Code which states a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and, (2) will not boycott Israel during the term of the contract. By submitting a signed response to an Ector County solicitation, the bidder is affirming compliance with Chapter 2270 of the Texas Government Code.

4.31. BUSINESS WITH FOREIGN TERRORIST ORGANIZATIONS-REQUIRED ONLY BY AWARDED VENDOR

Vendors/Contractors/Providers must be in compliance with the provisions of §2252.152 and §2252.153 of the Texas Government Code which states, in part, contracts with companies engaged in business with Iran, Sudan, or Foreign Terrorist Organizations are prohibited. A governmental entity may not enter into a contract with a company that is listed on the Comptroller of the State of Texas website identified under Section 806.051, Section 807.051 or Section 2253.253 which do business with Iran, Sudan or any Foreign Terrorist Organization. By submitting a signed response to an Ector County solicitation, the bidder is affirming compliance with provisions of §2252.152 and §2252.153 of the Texas Government Code.

5. SPECIFICATIONS

5.1. SUBMISSION INFORMATION

Ector County is requesting proposals on ECTOR COUNTY COLISEUM CONCESSIONAIRE . Sealed or Electronic Proposals addressed to Ector County Purchasing Agent, Lucy Soto will be received by 2:00 pm on Monday, August 19, 2024.

All proposals should be received either electronically, or at the location below by the deadline. If proposer chooses to submit a Hard copy, it must be delivered in a sealed envelope with a return address and clearly marked "ECTOR COUNTY COLISEUM CONCESSIONAIRE" The proposer's firm name shall appear on the outside of the envelope. Location for hard copy submittal is Ector County Purchasing Department, 1010 E 8th Street, Suite 110, Odessa, TX 79761.

Deadline for proposal submission is 2:00 pm on Monday, August 19, 2024. Any proposals received after proposal closing time will not be accepted.

5.2. THE SUCCESSFUL PROPOSER MUST

1. Provide refreshment services, the merchandise, and the personnel necessary to serve the public for a period of time before, during, and after events scheduled at the Coliseum Complex
2. As the coliseum operates venues that provide entertainment experience to diverse age ranges, the Coliseum is sensitive to ensuring the safety and enjoyable experience of all guests and requires employees of proposer to pass appropriate background checks. The proposer will be responsible for the hiring and training of its personnel. All personnel are required to submit to a background check. Background checks must meet the criteria of the Ector County Coliseum. (SEE EXHIBIT BB)
3. Provide uniforms and hygiene guidelines to all staff. Use of county and department/venue specific logo are encouraged, but subject to approval by the Coliseum Director.
4. Provide their own administrative supplies and Point of Sale (POS) cashiering system. A monthly report must be submitted to the Ector County Auditor's Office and the Coliseum Director regarding monthly gross sales, and the percentage to be paid to the County.
5. Offer proposed services, products and concessions menu. Prices for proposed services, food and/or beverage item to be sold should be listed. Suggestions include, but not limited to, hotdogs, hamburgers, french-fries, nachos, pizza, chicken strips, cotton candy, popcorn, and soft drinks. Menu template for this proposal can be found in Exhibit CC. Any additions after contract must get prior approval from Coliseum Director.
6. Provide customer service that is efficient and quick. Items should be delivered to the consumer at a maximum of 2 minutes after customers pay at a register.
7. Prepare a statement of sales and commissions for each Accounting Period and will submit such statement with commission statements to the County each accounting period. Statement of sales and commissions shall be detailed. The proposer must supply with each statement a copy of register tapes, daily event reports, as applicable.

8. Prepare a statement of overall Concession stand inventory upon request from the Ector County Coliseum Director or Ector County Auditor.

5.3. REVENUE TO THE COUNTY

It is anticipated that the proposer will pay to the County a minimum commission percentage (as noted in Price Sheet) of revenue received from all goods and services.

CONTRACT TERMS

The term of the agreement is for a period of five (5) years with five (5) year extension option, not to exceed 10 (ten) total years.

The county shall award a contract to the proposer that represent the best economic and qualitative returns.

The proposer will have exclusive right to sell alcoholic beverages for all contracted events in public areas with the following exceptions:

- Events geared toward school aged children.
- Religious events.
- Private events that do not request alcohol.

The proposer will have exclusive right to sell food and non-alcoholic beverages for all contracted events in public areas with the following exceptions:

- Said exclusive right does **not include catering** rights. Catering is defined as any food or non-alcoholic beverage sold in a predetermined quantity and paid for at one time at a prearranged price. *(Awarded proposer can be listed as a preferred caterer if proposer demonstrates its capabilities as a professional catering service.)*
- Touring circuses, and other family theatrical events geared toward small children traditionally rely on revenue from select concessions items as part of their business model. The Coliseum Director shall have the sole discretion to allow certain concessions items to be exclusively sold by these events and not by the concessionaire. Examples of these items include but are not limited to cotton candy, popcorn, sno-cones, candy apples, and lemonade. All other food items and non- alcoholic beverages not listed in written event contract shall be deemed as exclusive to the awarded concessionaire.
- Outdoor Festivals and Carnivals rely on revenue from concession booths throughout the Fair grounds. Outdoor food vendors at these types of events are allowed to sell food and non-alcoholic beverages outside only under certain conditions.

- When a buy-out agreement has been reached between the event, the concessionaire, and the Coliseum Director. (*Buy-out agreement subject third party contract % as noted on price sheet*)
- When concessionaire is selling alcoholic beverages during outdoor festival type events.

Due to prior commitments, on the part of Ector County which were entered into prior to this Contract, and the continuing support of the Ector County Coliseum by the organizations involved, the following organizations shall be excluded from the terms of this proposal:

- Odessa Junior League / Merry Marketplace
- Permian Basin Fair and Exposition, INC.
- St. John's Episcopal Church / Kooky Karnival
- The above organizations shall have the right to deal directly with the Concessionaire, should they so desire.
- The above organizations must deal directly with Concessionaire if they desire the sell of alcoholic beverages at their events.
- Concessionaire shall retain the right to sell from concession stands located within the main coliseum building during any of the above referenced events.

5.4. PROPOSER MINIMUM REQUIREMENTS

The proposer must have been in business providing services of a similar nature within the past three (3) years. The proposer must prove they are licensed to do business in Texas.

5.5. EQUIPMENT

The proposer will be required to supply, install, service, and maintain all display, and other equipment used to prepare and sell concession items, at no cost to the County. A listing of equipment to be used/provided by proposer must be included in the proposal using the template in Exhibit AA. The proposer is responsible for any electronic infrastructure to do their business. The County assumes no liability for damage to the equipment from fire, theft, vandalism, or other cause. The County, however, will use reasonable precautions to protect the proposer's equipment.

If any type of equipment provided by the successful proposer will not fit into existing areas, any modifications (i.e., new counters, etc.) will be made at the proposer's expense.

Renovations must be approved in writing by the County. Appearance of all equipment provided will be aesthetically appealing, as determined by the County. Any permanent modifications will become the property of the county at the conclusion or termination of the agreement.

5.6. EQUIPMENT MAINTENANCE REQUIREMENTS

Permanent equipment owned by the County and used by proposer will be inspected and signed for in good working order. All code inspections are the responsibility of the proposer.

The proposer will include in the proposal a plan for regular maintenance of all equipment owned by the County and the proposer. The proposer is responsible for reimbursing the County for loss of sales and/or additional costs incurred due to equipment breakdown or failed inspections based on historical event per cap revenue.

5.7. INSURANCE

The awarded proposer shall furnish Public Liability and Property Damage Insurance, including Products Liability Insurance, Contractual Liability Insurance, and Liquor Liability Insurance against any and all claims and losses arising out of the operation of the concession and the occupancy of the premises. This insurance shall be obtained from a company authorized to do business in the State of Texas and shall be in the following minimum amounts:

- General Liability Insurance - \$ 2,000,000 per occurrence
\$ 5,000,000 aggregate
- Bodily Injury Insurance - \$ 1,000,000 per person
\$ 2,000,000 per accident
- Property Damage Insurance - \$ 5,000,000
- Liquor Liability Insurance - \$ 2,000,000
 - In addition thereto, Concessionaire shall maintain an umbrella liability coverage of not less than FIVE MILLION DOLLARS (\$5,000,000.00) to include Products Liability; provided however, should the Ector County Coliseum determine at any time during the term of this Contract that the above coverage is inadequate, it shall notify the Concessionaire to increase the amount of such insurance so the same shall be adequate, consistent with generally accepted standards in the industry. All policies shall name the Ector County Coliseum, Ector County, as an additional insured under the insurance contract.

5.8. EQUIPMENT, FIXTURES AND EXPENDABLES

The proposer will not remove any items owned by the County from the premises without first seeking written approval from the Director of Coliseum.

The County will not be legally responsible for loss or damage to equipment owned by the proposer or a proposer's representative and located on county premises.

The proposer will surrender to the county upon termination of the contract all equipment and furnishings owned by the county in good repair and condition considering normal wear and usage.

Repairs and replacements caused by the proposer's negligence or misuse will be charged to the proposer for payment.

5.9. TRANSITION PLAN AT BEGINNING AND END OF CONTRACT

The proposer must describe a transition plan from the date of award, with target and event timeframes for an assumed transition plan takeover of the services operation. The County has a reasonable expectation that no loss in service will occur during this transition.

5.10. CUSTOMER SERVICE

The County is committed to customer service across all venues. The proposer must describe the customer service trainings required for employment with proposer and will work with the department on expectations metrics.

It is requested the proposer set baseline customer service metrics in the first 120 days of operation and strive to reach 80% overall annual customer service satisfaction score.

5.11. MARKETING SUPPORT

The county recognizes the importance of timely and effective marketing to promote concession items sold at the Ector County Coliseum. These efforts are intended to support the sale of goods at the facility through various marketing outlets (print, digital, online) and the proposer's proposal may include any proposed strategies for the development and implementation of marketing initiatives. In addition, as part of a separate agreement, the proposer may submit a proposal for signage at the entrances and concession stand fronts of the Ector County Coliseum for approval by the Coliseum Director.

5.12. VIABILITY

1. The proposer must provide evidence of its financial ability to carry out the concessions operation. All evidence under this requirement shall be sufficient to allow an adequate evaluation by the committee.

2. Provide a disclosure of any judgments, including, but not limited to, pending, or expected litigation or other real or potential financial reversals that might affect the viability or stability of the proposer; or warrant that no such condition is known to exist.

5.13. DRAFT CONTRACT

The proposer will submit a draft copy of their standard contract with their proposal; the contract will be subject to review by the County Attorney's office and the Ector County Coliseum.

5.14. PRICING AFTER THE INITIAL CONTRACT YEAR

The initial five (5) year term may offer a fixed percentage to the County, or other option presented by the proposer. Prior to the optional (5) year extension, revenue to the County may be negotiated.

The County recognizes that prices of goods and services of the proposer may fluctuate from year to year. However, for each year of the contract, the proposer must propose and justify any price

increases at least one-hundred twenty (120) days in advance of said price change. The County reserves the right to approve or reject all price changes.

5.15. PUBLICITY

Proposer will not publish any comments or quotes by County employees or include the County in either news releases or a published list of customers, without the prior written approval of the County.

6. PRICING PROPOSAL

PRICE SHEET

Completed Exhibits AA & CC as found in the proposal packet, must be attached to this price sheet

Line Item	Description	%	Commission Offered
1	Third Party contracts/Buy-outs		
2	Food & Non-Alcoholic Beverages		
3	Alcoholic Beverages		

7. VENDOR QUESTIONNAIRE

7.1. PROPOSAL*

Upload Proposal.

*Response required

7.2. CONFIRMATION*

I hereby certify and that the items offered meets all of the requirements of the proposal conditions and specifications and I hereby accept the provisions of the terms and conditions included in the proposal specifications.

The County of Ector does not discriminate on the basis of race, color, national origin, sex, religion, age and disability in employment or the provision of services.

☐ Please confirm

*Response required

7.3. AUTHORIZED REPRESENTATIVE*

Please download the below documents, complete, and upload.

- SIGNATURE PAGE (2).docx

*Response required

7.4. PROPOSER RESIDENCY CERTIFICATION*

Please download the below documents, complete, and upload.

- Proposer Residency Certific...

*Response required

7.5. CONFLICT OF INTEREST QUESTIONNAIRE*

Please download the below documents, complete, and upload.

- CIQ (1).pdf

*Response required

7.6. ECTOR COUNTY PROFESSIONAL REFERENCE SHEET*

Please download the below documents, complete, and upload.

- Reference Page (1).doc

*Response required

7.7. I CERTIFY AND ATTEST THAT MY COMPANY IS NOT DEBARRED BY ANY GOVERNMENTAL ENTITY*

☐ Yes

☐ No

*Response required

7.8. NON-COLLUSION REQUIREMENT*

The proposer declares, by signing and submitting a proposal, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited another proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, of that anyone shall refrain from proposing; that the proposer has not in any manner, directly or indirectly, sought by contract, communications, or conference with anyone to fix the proposal price of the proposer of any other proposer, or to fix any overhead, profit or cost element of the proposal price, or of that of any other proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and further, that the proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any cooperation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

A. No negotiations, decisions, or actions shall be initiated by any company as a result of any verbal discussion with any County Employee prior to the opening of responses to this invitation to proposal.

B. No Officer or employee of the County of Ector, and no other public or elected official, or employee, who may exercise any function or responsibilities in the review or approval of this undertaking shall have any personal or financial interest, direct or indirect, in any contract or negotiation process thereof. The above compliance request will be part of all County of Ector contracts for this service.

☐ Please confirm

*Response required

7.9. MASTER SERVICE AGREEMENT- REQUIRED ONLY BY AWARDED VENDOR
Awarded vendor will be required to submit completed form.

- [MSA - Special COLISEUM CONC...](#)

7.10. EXAMPLE - CERTIFICATE OF LIABILITY INSURANCE - REQUIRED ONLY BY AWARDED VENDOR

Awarded vendor will be required to submit completed form.

- [ACORD Certificate of Insura...](#)

7.11. CERTIFICATE OF INTERESTED PARTIES - FORM 1295 - REQUIRED ONLY BY AWARDED VENDOR

Awarded vendor will be required to submit completed form.

- [Form 1295.docx](#)

7.12. SENATE BILL 13 VERIFICATION - REQUIRED ONLY BY AWARDED VENDOR
Awarded vendor will be required to submit completed form.

- [SENATE BILL 13 VERIFICATION...](#)

7.13. SENATE BILL 19 VERIFICATION - REQUIRED ONLY BY AWARDED VENDOR
Awarded vendor will be required to submit completed form.

- [SENATE BILL 19 VERIFICATION...](#)

7.14. HOUSE BILL 89 VERIFICATION - REQUIRED ONLY BY AWARDED VENDOR
Awarded vendor will be required to submit completed form.

- [House Bill 89 Verification....](#)

7.15. SENATE BILL 252 VERIFICATION - REQUIRED ONLY BY AWARDED VENDOR
Awarded vendor will be required to submit completed form.

- [Senate Bill 252 Verificatio...](#)

8. EVALUATION

No.	Evaluation Criteria	Scoring Method	Weight (Points)
1.	TOTAL ECONOMIC VALUE <ul style="list-style-type: none"> Commission % to County. Product cost to customers. 	Points Based	40 (40% of Total)
2.	QUALITY OF PROGRAM <ul style="list-style-type: none"> Staff customer service training and background requirement. Ability to meet demand and delivery needs. Qualifications and success with similar program. Proposed marketing plan for increased sales at venue. 	Points Based	25 (25% of Total)
3.	TRANSITION AND REPORTING PLAN <ul style="list-style-type: none"> Detailed transition plan with no loss of service. Reporting of sales and inventory plan. 	Points Based	20 (20% of Total)
4.	MINIMUM QUALIFICATIONS <ul style="list-style-type: none"> Three (3) years qualifications, including required licenses and insurance coverages. 	Points Based	10 (10% of Total)
5.	REFERENCES <ul style="list-style-type: none"> Firm will provide the following reference information. The names, business address, and telephone numbers and email addresses of three (3) individuals and/or organizations who can attest to the firm's capability to carry out the requirements in this proposal. 	Points Based	5 (5% of Total)

Attachments:

AA - EXHIBIT_A_Coliseum_Concession_Equipment

BB - EXHIBIT_B_Minimum_Requirements

CC - EXHIBIT_C_Menu_Template

Avgas and Related Services Fuel Pricing					
			Ascent Aviation Group, Inc.	Avfuel Corporation	Eastern Aviation Fuels
Line Item	Description	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
1	Weekly Posted Rack	Price Per Gallon	\$3.5193	\$3.2201	\$3.3493
2	Freight	Price Per Gallon	\$.3077	\$.3649	\$.2917
3	Federal Excise Tax	Price Per Gallon	\$.193	\$.193	\$.193
4	Federal LUST	Price Per Gallon	\$.001	\$.001	\$.001
5	Federal Oil Spill	Price Per Gallon	\$.0021	\$.0021	\$.0021
6	Federal Superfund Fee	Price Per Gallon	\$.0041	\$.0041	\$.004
7	Texas Petro Delivery Fee	Price Per Gallon	\$.0009	\$.0008	\$.0082
8	Total Delivered Price	Price Per Gallon	\$4.028	\$3.786	\$3.8493
Total			\$8.0561	\$7.572	\$7.6986

Jet A Fuel and Related Services Fuel Pricing					
			Ascent Aviation Group, Inc.	Avfuel Corporation	Eastern Aviation Fuels
Line Item	Description	Unit of Measure	Unit Cost	Unit Cost	Unit Cost
1	Index	Price Per Gallon	\$2.2593	\$2.2593	\$2.2593
2	Differential	Price Per Gallon	\$.296	\$.0869	\$.111
3	Freight	Price Per Gallon	\$.066	\$.063	\$.0801
4	Federal Excise Tax	Price Per Gallon	\$.243	\$.243	\$.243
4	Federal LUST	Price Per Gallon	\$.001	\$.001	\$.001
6	Federal Oil Spill	Price Per Gallon	\$.0021	\$.0021	\$.0021
7	Federal Superfund Fee	Price Per Gallon	\$.0041	\$.004	\$.004
8	Texas Petro Delivery Fee	Price Per Gallon	\$0.00	\$0.00	\$.0082
9	Total Delivered Price	Price Per Gallon	\$2.8715	\$2.6593	\$2.7088
Total			\$5.743	\$5.3186	\$5.4175

Vendor				Total Score
Ascent Aviation Group, Inc.		48	41	44.5
Avfuel Corporation		69	48	58.5
Eastern Aviation Fuels		82	88	85



TEXAS ASSOCIATION of COUNTIES RISK MANAGEMENT POOL

Liability Renewal Questionnaire

Member: Ector County

Coverage Period: October 1, 2024 through October 1, 2025

Thank you for participating in the TAC Risk Management Pool's Liability program. As we prepare your renewal, there are a few questions we need you to answer so that we can provide you the most comprehensive and cost effective coverage possible. Pursuant to the Interlocal Participation Agreement, Section 4. Annual Contribution, 4.01 requires that the member timely submit to the Pool documentation necessary for the Pool to properly underwrite the renewal. To ensure that we have up-to-date information, please fill out each page completely and make any changes directly to this document. You can also provide supplemental sheets as necessary. NOTE: Omitted information may result in an exclusion from coverage.

The following coverage is eligible for renewal:

- Auto Liability
- Auto Physical Damage
- General Liability
- Privacy or Security Event Liability and Expense Coverage
- Public Officials Liability
- Law Enforcement Liability

Your Vehicle Schedule is attached to this renewal questionnaire. We ask that you review your Vehicle Schedule carefully and report any of the following:

- Sold or totaled vehicles
- Newly purchased or obtained vehicles

We value your membership in the TAC Risk Management Pool and look forward to another successful year! If you have any questions or need help completing the Renewal Questionnaire, please contact your Member Services Representative Sofia Maldonado at 800-456-5974 or sofiam@county.org.

Pool Coordinator

Our records indicate that the Member has designated the individual below as the Pool Coordinator for this coverage. In accordance with the terms of the Interlocal Participation Agreement, the Pool Coordinator has express authority to represent and to bind the Member, and the Pool will not be required to contact any other individual regarding matters arising from or related to this Agreement. If the Member wishes to change or update the Pool Coordinator information, please make the necessary changes below.

Pool Coordinator: Dana McWilliams

Email: dana.mcwilliams@ectorcountytexas.gov

Phone Number: (432) 498-4025

Fax Number: (432) 498-4097

Address: 1010 E 8th St Room 126

City, State, Zip: Odessa TX, 79761

Liability Renewal Questions

1. Please update the total number of budgeted Ector County employees, including elected officials

	Total	Airport	Hospital	
Full Time Employees:	693			Full Time = 35 or more hours per week
Part Time Employees:	22			Part Time = Less than 35 hours per week
Volunteers:	0			Volunteer = Actively serving

Auto Liability

Current Auto Liability Deductible: \$10,000

To make changes to your current Auto Liability coverage, please complete the section below:

Coverage	Currently Included	Add to Coverage	Reject from Coverage	Current Limit	Change Limit	Limit Options
Auto Liability	<input checked="" type="checkbox"/>			\$1,000,000	<input type="checkbox"/>	<input type="checkbox"/> \$100k/\$300k/\$100k <input type="checkbox"/> \$250k/\$500k/\$250k <input type="checkbox"/> \$1,000,000 <input type="checkbox"/> \$2,000,000
Personal Injury Protection		<input type="checkbox"/> Add				
Uninsured / Underinsured Motorist		<input type="checkbox"/> Add				

Vehicle Schedule Verification

☒ Yes, I have reviewed Ector County's Vehicle Schedule, and made corrections and updates which are incorporated into this Liability Renewal Questionnaire.

Auto Physical Damage

Current Auto Physical Damage Collision Deductible: \$5,000

Current Auto Physical Damage Comprehensive Deductible: \$5,000

General Liability

Current General Liability Deductible: \$25,000

To make changes to your current General Liability coverage, please complete the section below:

Coverage	Currently Included	Add to Coverage	Reject from Coverage	Current Limit	Change Limit	Limit Options
General Liability	<input checked="" type="checkbox"/>			\$1,000,000	<input type="checkbox"/>	<input type="checkbox"/> \$100k/\$300k/\$100k <input type="checkbox"/> \$250k/\$500k/\$250k <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 <input type="checkbox"/> \$2,000,000
Unmanned Aircraft	<input checked="" type="checkbox"/>		<input type="checkbox"/> Reject			

- How many law enforcement watercrafts under 26 feet, do you own? N/A
- If Unmanned Aircraft is selected, please complete the following for each Unmanned Aircraft:
 - U.A.S./ Drone Model and Value Please refer to attached
 - Weight in lbs including all attachments documentation on drones.
 - Year and Serial Number _____
 - Description of use _____
 - Operator Name _____
 - Date of Receipt of FAA COA & Registration Number as applicable _____
 - Total U.A.S./Drone flight hours _____
 - Description of Training Certifications _____

- Does your county own an airport? ☒ Yes ☐ No

If yes, who operates the airport? Ector County

If the airport is privately operated, the Pool recommends Ector County request a currently dated Certificate of Insurance issued by the airport operator's insurance agent or company that names the County as an Additional Insured and includes the following coverage as applicable:

- General Liability
- Professional Liability (airport facility operations)
- Employment Practices Liability
- Property (if the County owns the building)

TAC Liability Renewal Questionnaire

2024 – 2025 Policy Term

Unmanned Aircraft

DJI Avata 180mm 410grams Ser# 1581F4QWB22A4003006Y approx.
\$5,000 < 1 hour training manufacture 2023 Reg#FA3AKT4CYT
DJI Avata 180mm 410 grams Ser# 1581F4QWB22AF00303BY approx.
\$5,000 <1 hour training manufacture 2023 Reg# FA3AKT994L
DJI M30 585mm 3770 Grams Ser# 1581F5BKD236Q00E9UM3 approx
\$10,000 never flown manufacture 2023 Reg# FA3AKTC39C
DJI M30 585mm 3770 grams Ser# 1581F5BKD237800EE0T9 approx
\$10,000 approx 5 hours flight time manufacture 2023 Reg# FA3AKTEWC7
DJI M300 895mm 6.3 Kilograms Ser# 1ZN3HAQ001R174 approx
\$15,000 approx 20 hours flight time manufacture 2020 Reg#FA3AKTHPFW
DJI Mavic 3 Enterprise 347mm 1050 grams Ser#
158F5FFJD239E00DWF46 approx \$5,000 never flown manufacture
2022 Reg# FA3AKTKKKL
Autel Dragon Fish 1600mm 5.4 kilograms Ser#
1748CJD1823171318 approx \$100,000 20 minutes training flight
time manufacture 2023 Reg# FA3AKTNFMA

Descitption of use:

- On-scene reconnaissance prior to tactical deployment
- SWAT operations
- Hostage/barricaded subject situations
- Patrol-led deployment
- Forensic investigations
- Searching for lost persons
- Indoor tactical operations

From: DANIAL LINLEY
Sent: Friday, June 28, 2024 8:55 AM
To: SAMUEL.BRIJALBA
Subject: RE: Re: Status of TAC Insurance Renewal - Drone Inquiries
Attachments: 448776892_837325794508294_7428939789202530734_n.jpg

DJI Avata 180mm 410grams Ser# 1581F4QWB22A4003006Y approx. \$5,000 < 1 hour training manufacture
2023 Reg#FA3AKT4CYT
DJI Avata 180mm 410 grams Ser# 1581F4QWB22AF00303BY approx. \$,5000 <1 hour training manufacture
2023 Reg# FA3AKT994L
DJI M30 585mm 3770 Grams Ser# 1581F5BKD236Q00E9UM3 approx \$10,000 never flown manufacture
2023 Reg# FA3AKTC39C
DJI M30 585mm 3770 grams Ser# 1581F5BKD237800EE0T9 approx \$10,000 approx 5 hours flight
time manufacture 2023 Reg# FA3AKTEWC7
DJI M300 895mm 6.3 Kilograms Ser# 1ZN3HAQ001R174 approx \$15,000 approx 20 hours flight
time manufacture 2020 Reg#FA3AKTHPFW
DJI Mavic 3 Enterprise 347mm 1050 grams Ser# 158F5FFJD239E00DWF46 approx \$5,000 never
flown manufacture 2022 Reg# FA3AKTKKKL
Autel Dragon Fish 1600mm 5.4 kilograms Ser# 1748CJD1823171318 approx \$100,000 20 minutes training
flight time manufacture 2023 Reg# FA3AKTNFMA

Description of use:

- On-scene reconnaissance prior to tactical deployment
- SWAT operations
- Hostage/barricaded subject situations
- Patrol-led deployment
- Forensic investigations
- Searching for lost persons
- Indoor tactical operations

Danial Linley
Sergeant Crime Scene Investigation
Ector County Sheriff's Office
432-335-3050 Ext 3007

From: SAMUEL.BRIJALBA <SAMUEL.BRIJALBA@ectorcountytexas.gov>
Sent: Thursday, June 27, 2024 9:39 AM
To: DANIAL.LINLEY <DANIAL.LINLEY@ectorcountysheriff.us>
Subject: RE: Re: Status of TAC Insurance Renewal - Drone Inquiries

Let's see.

1. gave me the length in mm but I also need the weight for *each of the drones*.
2. I also need the Year of Manufacture for each of the drones.

I know that last year you had indicated that with that particular drone you indicated that the delivery date was 2020.

airman certificate is

For additional information please see below

I **UNITED STATES OF AMERICA** XI
DEPARTMENT OF TRANSPORTATION • FEDERAL AVIATION ADMINISTRATION

IV NAME

MARINA ASHLEY LUJAN

V ADDRESS **4901 CLOVER AVE
ODESSA TX 79762-6024**

VI NATIONALITY **USA**

IV D.O.B. **1 JAN 1994**

SEX **F** HEIGHT **60** WEIGHT **190** HAIR **BROWN** EYES **BROWN**

IX HAS BEEN FOUND PROPERLY QUALIFIED TO EXERCISE THE PRIVILEGES OF

II **REMOTE PILOT**

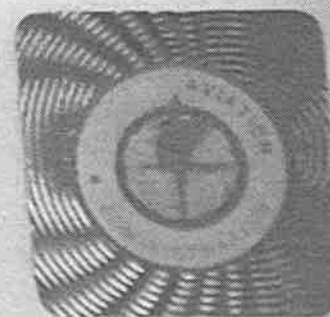
III CERTIFICATE NUMBER **5003493**

X DATE OF ISSUE **17 MAY 2024**

XIV

VIII

MBW
ADMINISTRATOR



U

A

S

UNITED STATES OF AMERICA

XI

DEPARTMENT OF TRANSPORTATION • FEDERAL AVIATION ADMINISTRATION

NAME

DANIAL BRYANT LINLEY

ADDRESS 4034 E EVERGLADE AVE
ODESSA TX 79762-7134

NATIONALITY USA

D.O.B. 17 DEC 1973

SEX HEIGHT WEIGHT HAIR EYES
M 68 180 BROWN HAZEL

AS BEEN FOUND TO BE PROPERLY QUALIFIED TO EXERCISE THE PRIVILEGES OF

II REMOTE PILOT

III CERTIFICATE NUMBER

4008162

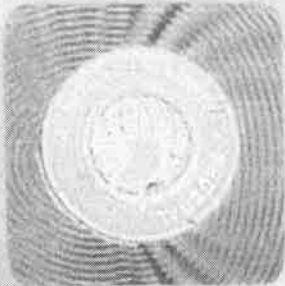
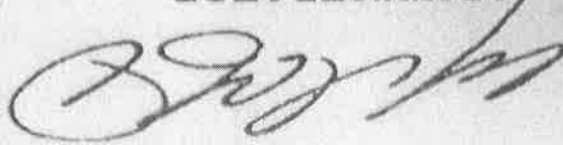
X DATE OF ISSUE

23 MAY 2017

XIV

VIII

ADMINISTRATOR



Privacy or Security Event Liability and Expense Coverage

Current Privacy or Security Event Liability and Expense Deductible: \$25,000

To make changes to your current Privacy or Security Event Liability and Expense coverage, please complete the section below

Coverage	Currently Included	Add to Coverage	Reject from Coverage	Current Limit	Change Limit	Limit Options
Privacy or Security Event Liability and Expense	<input checked="" type="checkbox"/>			\$500,000	<input type="checkbox"/>	<input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 <input type="checkbox"/> \$2,000,000
Business Interruption	<input checked="" type="checkbox"/>			\$50,000 / \$50,000		
Electronic Equipment and Data Recovery	<input checked="" type="checkbox"/>			\$50,000 / \$50,000		
eCrime	<input checked="" type="checkbox"/>			\$25,000 / \$25,000		
Extortion	<input checked="" type="checkbox"/>			\$10,000 / \$10,000		

Internal Cyber Security Point of Contact:

Name	Mario Ornelas	Title	Director Info Tech
Telephone	(432) 498-4065	Email	Mario.Ornelas@ectorcountytx.gov

Please complete all the following questions concerning the Information Technology environment within your organization. These questions are intended to be answered by an IT Director (or equivalent professional) with adequate knowledge of the organization's cybersecurity measures and protocols. All questions require completion for Privacy or Security Event Liability coverage. Increased limits will require underwriting review for consideration.

To be considered for a \$1M Privacy or Security Event Liability and Expense limit the following must be met satisfactorily:

1. Our staff receive mandatory cybersecurity awareness training at least annually on expectations of staff to recognize common cyber-attacks, such as social engineering and phishing, to report possible cybersecurity incidents or other types of cyber-attacks, and to know who to report cybersecurity issues/problems to.
 - a. No, we do not receive mandatory cybersecurity awareness training annually.
 - ☒ b. Yes, we are required to participate in mandatory cybersecurity awareness training at least annually.
2. Our staff logs in to their web-based email using multi-factor authentication (e.g., receiving a text message to validate log in).
 - ☒ a. True
 - b. False
3. Our critical and sensitive data is backed up, stored and encrypted offline on a different logical or physical network such as a cloud backup to support recovery from a catastrophic cyber incident if required.
 - a. True, but our backups are not stored offline on a different logical network location; they are connected to our IT network, and they are encrypted.
 - ☒ b. True, our backups are offline (in a different logical network) and encrypted.
 - c. True, our backups are offline (such as a manual hard drive backup), but they are not encrypted.
 - d. False, we do not back up our critical or sensitive data.

To be considered for a \$2M Privacy or Security Event Liability and Expense limit the following must be met satisfactorily in addition to the questions noted above:

4. My organization/county has formalized IT and cybersecurity policies and plans that document, for example, guidelines for acceptable use of IT, passwords, reporting of unusual activity (e.g., workstation locking up or not functioning properly), cybersecurity training, and cyber incident response.
 - a. We have no documented policies or plans.
 - b. We have some documented policies, procedures, and plans, but there are known gaps.
 - ☒ c. We have a robust, well documented IT and cybersecurity program that is current.
5. Our organization/county requires multi-factor authentication for remote access to our network (both cloud-hosted and on-premises, including Virtual Private Networks (VPNs)).
 - ☒ a. True
 - b. False
6. We review our organizations' IT and cybersecurity policies, procedures, and plans at least annually and we make updates/changes based on changes in the organization, the cybersecurity environment, and technology.
 - ☒ a. True
 - b. False
7. In the case of a cybersecurity incident, we report the incident to.
 - a. Cyber Insurance Provider
 - b. Cyber Insurance Provider and Law Enforcement
 - ☒ c. Cyber Insurance Provider, Law Enforcement, and Cyber Incident Support Vendors (may include Cyber Forensics, Cyber Legal Support, and other Cyber Incident support)
 - d. None of the Above

8. We have staff (either internal staff or outsourced contractors/vendors) who are responsible for maintaining our IT systems and applying maintenance and cybersecurity patches to software on the workstations within our organization.
- a. No, we do not have staff/contractors who perform this function.
 - ☒ b. Yes, we do have staff/contractors who perform this function.
9. We have cybersecurity tools and systems that monitor who is on our network, when they are on the network, and what network resources they are using.
- ☒ a. True
 - b. False
10. We have implemented email content filtering and web content filtering to identify unauthorized activity, malicious attachments and other prohibited activity that may negatively impact our IT network and systems.
- ☒ a. True
 - b. False
11. We conduct interactive or simulated social engineering (i.e., KnowBe4 phishing emails) training.
- ☒ a. True
 - b. False
12. We have implemented tools (e.g., Endpoint Detection and Response tools such as Microsoft Defender for endpoints, CrowdStrike Falcon, or Malwarebytes Endpoint Security) to automatically monitor, log, and report unusual and unauthorized activities that occur on our IT workstations.
- ☒ a. True
 - b. False
13. We have software/hardware that is no longer supported by the manufacturer or vendor but is active on our IT network.
- a. Yes, we have outdated hardware or software on our network that is no longer supported by the manufacturer or vendor.
 - ☒ b. No, we do not have any hardware or software on our IT network that is no longer supported by the manufacturer or vendor.
 - c. I do not know.
14. We have a formal Disaster Recovery Plan and a formal Business Continuity Plan that guides us in setting the priority of system (applications / systems / databases) restoration to recover from a cyber incident that impacts our business operations.
- ☒ a. True
 - b. False

Money Transfer Controls

15. Are employees who are responsible for disbursing or transmitting funds provided anti-fraud training, including detection of social engineering, phishing, business email compromise, and other scams, on at least an annual basis?
- ☒ a. Yes
 - b. No
16. When a vendor or supplier requests any change to its account details (including routing numbers and account numbers), do you confirm requested changes via an out-of-band authentication (a method other than the original means of request)? For example, if a request is made by email, a follow-up phone call is placed to confirm that the supplier or vendor made the request.
- ☒ a. Yes
 - b. No

Public Officials Liability

Current Public Officials Liability Deductible: \$25,000

To make changes to your current Public Officials coverage, please complete the section below:

Coverage	Currently Included	Add to Coverage	Reject from Coverage	Current Limit	Change Limit	Limit Options
Public Officials Liability	<input checked="" type="checkbox"/>			\$2,000,000	<input type="checkbox"/>	<input type="checkbox"/> \$2,000,000 <input type="checkbox"/> \$3,000,000
District Attorney	<input checked="" type="checkbox"/>		<input type="checkbox"/> Reject			
District Judge	<input checked="" type="checkbox"/>		<input type="checkbox"/> Reject			
Back Wages - Optional Increased Limits (included coverage limit is \$50,000/\$100,000)	<input checked="" type="checkbox"/>		<input type="checkbox"/> Reject	\$100,000/\$250,000	<input type="checkbox"/>	<input type="checkbox"/> \$50,000/\$100,000 <input type="checkbox"/> \$100,000/\$250,000 <input type="checkbox"/> \$250,000/\$500,000 <input type="checkbox"/> \$500,000/\$1,000,000 <input type="checkbox"/> \$1,000,000/\$1,000,000

Law Enforcement Liability

Current Law Enforcement Liability Deductible: \$50,000

To make changes to your current Law Enforcement Liability coverage, please complete the section below:

Coverage	Currently Included	Add to Coverage	Reject from Coverage	Current Limit	Change Limit	Limit Options
Law Enforcement Liability	<input checked="" type="checkbox"/>			\$2,000,000	<input type="checkbox"/>	<input type="checkbox"/> \$2,000,000 <input type="checkbox"/> \$3,000,000
District Judge	<input checked="" type="checkbox"/>		<input type="checkbox"/> Reject			
District Attorney	<input checked="" type="checkbox"/>		<input type="checkbox"/> Reject			
Unmanned Aircraft	<input checked="" type="checkbox"/>		<input type="checkbox"/> Reject			

1. Please review the list of law enforcement departments and agencies below and add or delete as appropriate:

Example: Sheriff's Department, Constables' Offices, Detention Facilities

Ector County Attorney's Office
 Ector County Constable's Office
 Ector County Employees Of The District Attorney's Office
 Ector County Juvenile Probation Department
 Ector County Sheriff's Office

Ector County Adult Probation
Ector County Post-Sentence Monitoring

2. If Unmanned Aircraft is selected, please complete the following for each Unmanned Aircraft:

- U.A.S./ Drone Model and Value Please refer to attached
- Weight in lbs including all attachments documentation on drones
- Year and Serial Number _____
- Description of use _____
- Operator Name _____
- Date of Receipt of FAA COA & Registration Number as applicable _____
- Total U.A.S./Drone flight hours _____
- Description of Training Certifications _____

3. Please provide below the current budgeted number of Law Enforcement personnel for all law enforcement unit - department and agency listed above. If no Juvenile - Class B personnel are reported, coverage will not be provided for these personnel.

NOTE: Full time = 35 or more hours per week. Part Time = Less than 35 hours per week

Actively Engaged		Juvenile		Other		Reserves	
Include: sheriff, deputies, armed investigators, armed bailiffs, constables, jail admins, jailers, other front line personnel		Include: probation officers, detention center guards, boot camp instructors		Include: dispatchers, unarmed prosecutors' investigators, jail nurses, cooks, clerical, unarmed bailiffs, other personnel		Include: all reserve and auxiliary officers and employees	
Class A	Full Time: 184	Class B	Full Time:	Class C	Full Time: 49	Class D	Full Time: 17
	Part Time: 2		Part Time:		Part Time: 0		Part Time: 0

4. Does Ector County participate in a Law Enforcement Task Force? ☒ Yes ☐ No

If yes, do you lead this Task Force? Yes ☐ No ☒

Name of Law Enforcement Task Force: FBI, DEA, HIDTA, US Marshalls Fugitive Task Force

5. Do you participate in a Mutual Aid Agreement? Yes ☐ No ☐

If yes, list name of Mutual Aid Agreement Mou - Memorandum of Understanding

6. Is any law enforcement officer, office, department or agency for which coverage is requested under any criminal or administrative investigation? Yes ☐ No ☒

If yes, provide details or circumstances which are unprivileged public information.

Juvenile Probation Personnel

3 admin (receptionist, secretary, admin assistant) – full time;
12 probation officers (includes Director, Deputy Director,
Facility Administrator) – full time;
27 detention officers (includes intake staff and detention
supervisor) – full time. 3 current vacancies;
1 charge nurse – full time.

We have no part time staff.

SAMUEL.BRIJALBA

From: KEVIN.MANN
Sent: Friday, June 28, 2024 1:00 PM
To: SAMUEL.BRIJALBA
Subject: RE: Re: TAC Inquiry - Liability Renewal Questionnaire

3 admin (receptionist, secretary, admin assistant) – full time;
12 probation officers (includes Director, Deputy Director, Facility Administrator) – full time;
27 detention officers (includes intake staff and detention supervisor) – full time. 3 current vacancies;
1 charge nurse – full time.

We have no part time staff.

Thanks,

Kevin Mann
Director of Juvenile Services
Ector County Juvenile Probation Department
1401 E. Yukon Road, Odessa, TX 79762
(432) 362-6356

From: SAMUEL.BRIJALBA <SAMUEL.BRIJALBA@ectorcountytexas.gov>
Sent: Friday, June 28, 2024 10:23 AM
To: KEVIN.MANN <KEVIN.MANN@ectorcountytexas.gov>
Subject: Re: TAC Inquiry - Liability Renewal Questionnaire
Importance: High

Good morning Kevin,

It's insurance renewal time.

Is there any way you could fill in the blanks below regarding # of full time and part time employees and submit back to me **by the end of the day?**

TAC submitted an inquiry regarding Juvenile Probation Department:

NOTE: Full Time = 35 or more hours per week
Part Time = Less than 35 hours per week

*****TAC WANTS TO KNOW HOW MANY EMPLOYEES YOU HAVE THAT FIT THE FOLLOWING DESCRIPTION – Full Time & Part Time**

Juvenile

Include: Probation officers, detention center guards, boot camp instructors

Full Time _____

Class B

Part Time _____

Much appreciated.

Have a nice weekend!

Thank you,

Sam Brijalba

Ector County Safety/Risk Management Coordinator

p 432-498-4025

f 432-498-4097

Samuel.Brijalba@ectorcountytx.gov



"The mission of Ector County is to provide quality public services to its citizens in a timely, efficient and courteous manner. Ector County strives to accomplish this objective while maintaining fiscal responsibility and governmental accountability to safeguard the public trust"

7 Does Ector County own a Jail Facility and/or Detention Facility? ☒ Yes ☐ No

If yes, who operates the Jail Facility? Ector County

If yes, who operates the Detention Facility? Ector County

If the Jail Facility or Detention Facility is privately operated, the Pool recommends Ector County request a currently dated Certificate of Insurance issued by the facility operator's insurance agent or company that names the County as an Additional Insured and includes the following coverage as applicable:

General Liability

Professional Liability

Employment Practices Liability

Property (if the County owns the building)

N/A

8. If Ector County operates a Jail Facility and/or Detention Facility, please provide a copy of the Certificate of Compliance from the Texas Commissions of Jail Standards.

9. If a copy of the Certificate of Compliance is not held, attach information on actions being taken to bring facility into compliance. NOTE: Failure to provide Certificate of Compliance from the Texas Commissions of Jail Standards may result in the jail being excluded from coverage.

Unreported Claims

Are you, or any officer or employee, aware of, or have knowledge of any circumstance, occurrence, fact or event which is likely to be a basis of a claim, either now or in the future? Yes ☒ No

If yes, please describe:

Has the situation been reported to TAC Claims Department? Yes ☐ No ☐



CERTIFICATE OF COMPLIANCE

This is to certify that the

ECTOR COUNTY JAIL

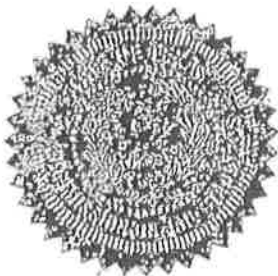
Has been duly inspected on

APRIL 5, 2024

and has been found that date to be in compliance with

Texas Minimum Jail Standards

Under Authority of Government Code,
Chapter 511, Texas Commission On Jail Standards



Brandon S. Wood, Executive Director

Acknowledgement and Acceptance

Ector County (Member) acknowledges that the information submitted in this questionnaire and Auto Schedule is true and accurate, including all known potential claims. The information submitted may be used by the Pool in processing the renewal and in assessing the coverage needs of Member. The questions posed, or any wording of the questionnaire, should not and may not be relied upon by Member as implying that coverage exists for any particular claim or class of claims. The only coverage provided by the Pool to Member is as described in the applicable Coverage Document, including any endorsements and the Contribution and Coverage Declaration, issued to a covered Member.

Member acknowledges and agrees that vehicles not listed on the attached vehicle schedule, and/or additionally identified by Member as an update to the attached vehicle schedule, will not be provided coverage during the Coverage Period.

If Member makes no changes, the Pool will assume Member is requesting renewal for the same Liability Coverage as in the previous applicable Coverage Period. Member understands that any failure to fully and accurately answer the questionnaire and any attached schedules may result in denial of coverage provided by the Pool. Coverage issued for Public Officials Liability and Law Enforcement Liability will apply on a Claims Made Basis.

Signature of County Judge or presiding official of the Political Subdivision

Date



TEXAS ASSOCIATION of COUNTIES RISK MANAGEMENT POOL

Auto Schedule - Proposal

Member: Ector County
Coverage Period: October 1, 2024 to October 1, 2025

☐ Personal Injury Protection
☐ Uninsured / Underinsured Motorist

ID #	Year	Make	Model	VIN #	Inventory #	Cost New	Auto Liability	Auto Physical Damage		POV	EQUIP
								Coll	Comp		
146	2018	CHEVROLET	IMPALA	2G11X5S3XJ9109537	Unit # 1087	\$22,140	X	X	X		
187	2015	TOYOTA	TUNDRA PICKUP	5TFEY5F13FX185084	Unit # 1059	\$31,759	X	X	X		
193	2013	CHEVROLET	IMPALA	2G1WF5E34D1265970	Unit # 998	\$20,359	X	X	X		
271	2018	CHEVROLET	IMPALA	2G11X5S30J9110664	Unit # 1088	\$22,140	X	X	X		
293	2023	TOYOTA	COROLLA	SYFB4MDE9PP077461	1295	\$21,373	X	X	X		
294	2023	TOYOTA	COROLLA	SYFB4MDESPP076100	1296	\$21,373	X	X	X		
295	2024	TOYOTA	TUNDRA	5TFKB5AA1RX029955	1297	\$40,798	X	X	X		
Department: Adult Probation							Total Number of Vehicles: 7				
65	2006	OTHER	ISUZU NPR	JALB4B1G767015229	Unit # 843	\$77,023	X	X	X		
Department: Airport							Total Number of Vehicles: 1				
5	2019	OTHER	WANCO WSDT-S SOLAR TRAILER	5F15S0919K1006620	E01145	\$13,816	X	X	X		
39	1971	OTHER	HOMEMADE UTILITY TRAILER	TB09997	E0264	\$1,500	X	X	X		
54	2019	OTHER	HOMEMADE UTILITY TRAILER	TR224220	E01118	\$0	X	X	X		
63	2002	OTHER	WANCO SIGN TRAILER	5F17S101321000691	E01173	\$4,200	X	X	X		
65	2019	OTHER	WANCO WSDT-S SOLAR TRAILER	5F12S121XK1006396	E01147	\$22,055	X	X	X		
89	2003	OTHER	HOMEMADE UTILITY TRAILER	TB09999	E0260	\$742	X	X	X		
109	2018	OTHER	HOMEMADE 84X16 BLUE WATER TRAILER	TR223234	E01113	\$1,100	X	X	X		
125	2019	OTHER	WANCO WSDT-S SOLAR TRAILER	5F12S1211K1006397	E01146	\$22,055	X	X	X		
136	2021	CHEVROLET	SILVERADO	1HTKJPVK8MH614622	Unit # 1204	\$112,263	X	X	X		
143	2003	CHEVROLET	2500 PICKUP	1GCHC29U03E300396	Unit # 770	\$19,949	X				
171	1995	OTHER	HOMEMADE 8X16 TRAILER	TB09990	E0029	\$1,500	X	X	X		
179	2019	OTHER	WANCO WSDT-S SOLAR TRAILER	5F15S0917K1006627	E01144	\$13,816	X	X	X		
182	2015	FORD	F250 SS SRW	1FDBF2A81FEA60379	Unit # 1036	\$25,130	X	X	X		
212	2023	CHEVROLET	TAHOE	1GNSCLE09PR192660	Unit # 1284	\$49,446	X	X	X		
235	2001	OTHER	WANCO SIGN TRAILER	5F11S10141100445	E01171	\$3,790	X	X	X		
238	2018	OTHER	HOMEMADE 84X16 TRAILER	TR223235	E01112	\$750	X	X	X		
245	2010	CHEVROLET	SILVERADO	1GB6CZBK0AF131629	Unit # 327	\$24,466	X	X	X		
251	2002	OTHER	WANCO SIGN TRAILER	5F17S101521000692	E01174	\$4,200	X	X	X		

ID #	Year	Make	Model	VIN #	Inventory #	Cost New	Auto Liability	Auto Physical Damage		POV	EQUIP
								Coll	Comp		
253	2006	GMC	W5500	J8DE5B16467901389	Unit # 813	\$34,440	X				
264	2001	OTHER	WANCO SIGN TRAILER	5F11S10141100444	E01172	\$3,790	X	X	X		
268	2016	CHEVROLET	SILVERADO 1500 PICKUP	1GCRCNEC5GZ225793	Unit # 1064	\$27,404	X	X	X		
312	2024	CHEVROLET	C1500	1GCUAED2RZ166844	1317	\$54,661	X	X	X		
314	2023	CHEVROLET	C1500	3GCUAED8PC318400	1293	\$51,515	X	X	X		
316	2023	CHEVROLET	C1500	3GCUAED3PG318399	1292	\$51,515	X	X	X		
318	2024	FORD	TRANSIT 350 VAN	1FTBW9C85RKA04222	1321	\$53,643	X	X	X		
Department: All Other Departments										Total Number of Vehicles: 25	
19	2019	FORD	F250	1FD7W2A6XKED80181	Unit # 1127	\$48,174	X	X	X		
92	2008	FORD	F250	1FTSX20588ED28177	Unit # 1003	\$10,000	X	X	X		
135	2015	FORD	F250 PICKUP	1FT7X2A60FEC55770	Unit # 1045	\$23,880	X	X	X		
242	1987	OTHER	STOCKMAN STOCK TRAILER	140BLBB29GA108880	E0837	\$2,050	X	X	X		
262	2008	FORD	F250	1FTSX20518ED28179	Unit # 1002	\$10,000	X	X	X		
285	2015	FORD	F250 SYOER CAB SRW	1FT7X2A67FEA70710	Unit # 1037	\$27,572	X	X	X		
Department: Animal Control										Total Number of Vehicles: 6	
18	2008	CHEVROLET	C7500 DUMP	1GBJ7C1G98F412959	Unit # 919	\$49,740	X	X	X		
67	2010	OTHER	BIG TEX DUMP TRAILER	16VPX1823A2349071	E0920	\$2,850	X	X	X		
117	2008	CHEVROLET	2500 PICKUP	1GCHC29K98E181074	Unit # 873	\$21,851	X				
148	2009	OTHER	BIG TEX DUMP TRAILER	16VDX102092H39432	E0911	\$5,040	X	X	X		
228	1999	OTHER	STEVENS 400 GAL WATER TRAILER	373088	E0131	\$522	X	X	X		
Department: Cemetery										Total Number of Vehicles: 5	
20	2008	OTHER	GOOSENECK TRAILER	16VEX202781321087	E0884	\$5,828	X	X	X		
32	2017	CHEVROLET	SILVERADO	1GC5CYCG6HZ207598	Unit # 1085	\$29,020	X	X	X		
105	1995	GMC	TOPKICK DUMP	1GDK7H1J4S1501427	Unit # 692	\$17,500	X				
157	2020	OTHER	BUDDY VAC TRAILER	17XFD1424L1094753	E01176	\$35,950	X	X	X		
254	2020	OTHER	POLY TANK TRAILER	67494	E01143	\$6,600	X	X	X		
Department: Colosseum										Total Number of Vehicles: 5	
11	2014	CHEVROLET	IMPALA	2G1WD5E32E1166619	Unit # 1026	\$20,445	X	X	X		
62	2014	CHEVROLET	IMPALA	2G1WD5E35E1166908	Unit # 1027	\$20,445	X	X	X		
127	2014	CHEVROLET	IMPALA	2G1WD5E3XE1167047	Unit # 1028	\$20,578	X	X	X		
248	2014	CHEVROLET	IMPALA	2G1WD5E3DE1166246	Unit # 1023	\$20,445	X	X	X		
Department: County Attorney										Total Number of Vehicles: 4	
21	2017	DODGE	CHARGER	2C3CDXAT6HH548535	Unit # 1081	\$23,615	X	X	X		
107	2014	CHEVROLET	IMPALA	2G1WD5E38E1166463	Unit # 1024	\$20,445	X	X	X		
152	2012	CHEVROLET	IMPALA	2G1WD5E34C1195794	Unit # 975	\$21,540	X	X	X		
213	2017	DODGE	CHARGER	2C3CDXAT4HH548534	Unit # 1082	\$23,615	X	X	X		
226	2014	CHEVROLET	IMPALA	2G1WD5E34E1167349	Unit # 1029	\$20,578	X	X	X		

Department: District Attorney							Total Number of Vehicles: 5		
49	2022	CHEVROLET	TAHOE	1GNSCLE6NR303632	Unit # 1262	\$48,010	X	X	X
277	2022	CHEVROLET	TAHOE	1GNSCLE6NR260096	Unit # 1259	\$44,959	X	X	X
Department: District/County Attorney							Total Number of Vehicles: 2		
211	2012	CHEVROLET	1500 PICKUP	1GCRCPEAXGZ190057	Unit # 973	\$22,354	X	X	X
Department: Engineering							Total Number of Vehicles: 1		
58	2020	FORD	F250	1FT7W2B67LEC63362	Unit # 1156	\$49,468	X	X	X
91	2020	FORD	F250	1FT7W2B65LEC63301	Unit # 1155	\$49,468	X	X	X
172	2013	CHEVROLET	TAHOE	1GNLC2E00DR345904	Unit # 1010	\$40,847	X	X	X
210	2020	FORD	F250	1FT7W2B60LEC63364	Unit # 1158	\$49,468	X	X	X
233	2017	OTHER	C & M TRAILER	5VNB1625HT186487	E01091	\$2,435	X	X	X
255	2020	FORD	F250	1FT7W2B63LEC63360	Unit # 1154	\$49,468	X	X	X
287	2020	FORD	F250	1FT7W2B69LEC63363	Unit # 1157	\$49,468	X	X	X
317	2024	FORD	F350	1FD8W3HT9REC60622	1320	\$79,914	X	X	X
Department: Environmental							Total Number of Vehicles: 8		
45	2019	OTHER	CIMARRON CIM STOCK TRAILER	5PASG2625KC012155	E01104	\$39,820	X	X	X
78	1985	OTHER	STOCKMAN PONY TRAILER	TR137042	E0244	\$1,000	X	X	X
177	2019	CHEVROLET	SILVERADO	1GC4KVCY5KF234368	Unit # 1114	\$46,698	X	X	X
310	2024	CHEVROLET	SUBURBAN	1GNSKAED8RR192370	1315	\$56,928	X	X	X
Department: Extension Office							Total Number of Vehicles: 4		
101	2009	FORD	E150	1FTNE14L89DA49664	Unit # 895	\$15,416	X	X	X
120	2002	FORD	F250	1FTNF20L32EC80643	Unit # 741	\$21,662	X	X	X
258	2003	OTHER	HOMEMADE UTILITY TRAILER	TR191546	E0261	\$1,000	X	X	X
282	2011	CHEVROLET	IMPALA	2G1WD5EM2B1210008	Unit # 951	\$20,186	X	X	X
Department: Fleet Services							Total Number of Vehicles: 4		
195	2021	MERCEDES BENZ	SPRINTER 2500	W1Y4ECHY5MT065070		\$161,525	X	X	X
232	2023	CHEVROLET	C/K 1500	3GCPACEK0G280420	Unit # 1285	\$45,170	X	X	X
256	2023	CHEVROLET	SILVERADO	3GCPACEK6PG280276	Unit # 1280	\$45,170	X	X	X
Department: Health Services							Total Number of Vehicles: 3		
4	2005	CHEVROLET	1500	1GCEC14T05Z291552	Unit # 800	\$15,308	X	X	X
36	2013	TOYOTA	TUNDRA PICKUP	5TFEY5F1XDX144860	Unit # 1005	\$35,786	X	X	X
42	2007	CHEVROLET	IMPALA	2G1WS55R179308358	Unit # 847	\$17,950	X	X	X
72	2021	FORD	F150	1FTFW1E52NKE16212	Unit # 1260	\$34,393	X	X	X
273	2007	CHEVROLET	IMPALA	2G1WS55R870305683	Unit # 848	\$17,950	X	X	X
298	2023	FORD	TRANSIT VAN	1FTBR1Y83PKA15461	1291	\$44,903	X	X	X
Department: IT							Total Number of Vehicles: 6		
1	2008	CHEVROLET	EXPRESS	1GAHG39K4B1175225	Unit # 871	\$22,391	X	X	X
43	2015	CHEVROLET	EXPRESS VAN	1GAWGPFF4F1246183	Unit # 1058	\$24,845	X	X	X
57	2005	CHEVROLET	3500	1GAGG25V751223949	Unit # 799	\$18,598	X	X	X
70	2020	CHEVROLET	EXPRESS VAN	1GAZGNFP3M11582B1	Unit # 1199	\$29,645	X	X	X

ID #	Year	Make	Model	VIN #	Inventory #	Cost New	Auto Liability	Auto Physical Damage		POV	EQUIP
								Coll	Comp		
85	1990	OTHER	UTILITY TRAILER	19901623	E0132	\$650	X	X	X		
87	2019	CHEVROLET	EXPRESS VAN	1GAZGNFP9K1313574	Unit # 1129	\$29,110	X	X	X		
98	1990	OTHER	HOMEMADE TRAILER	5VNB0162XCT097930	E01030	\$2,435	X	X	X		
123	2015	CHEVROLET	CAPRICE PPV PATROL	6G3NS5U26FL111929	Unit # 1055	\$26,565	X	X	X		
142	2010	CHEVROLET	EXPRESS VAN	1GA2G1DG2A1132182	Unit # 925	\$27,626	X	X	X		
159	2020	CHEVROLET	EXPRESS VAN	1GAZGNFP8L1270203	Unit # 1195	\$29,645	X	X	X		
162	2019	CHEVROLET	EXPRESS VAN	1GAZGNFP9K1317432	Unit # 1120	\$29,110	X	X	X		
167	2013	CHEVROLET	EXPRESS VAN	1GAZGZFA0D1102942	Unit # 997	\$25,147	X	X	X		
184	2010	FORD	F150 PICKUP	1FTFX1CVXAFB53055	Unit # 929	\$19,086	X	X	X		
192	2014	FORD	TAURUS POLICE INTERCEPTOR	1FAHP2MK5EG111716	Unit # 1009	\$26,699	X	X	X		
208	2011	CHEVROLET	EXPRESS VAN	1GAZGZFGXB1126318	Unit # 946	\$26,429	X	X	X		
222	2021	DODGE	CHARGER	2C3CDXBG1MH588694	Unit # 1205	\$29,118	X	X	X		
261	2005	CHEVROLET	EXPRESS 3500	1GAHG39U751217173	Unit # 795	\$20,498	X				
270	1990	OTHER	HOMEMADE UTILITY TRAILER	16VPX1627P1E40365	E038898	\$2,435	X	X	X		
289	2016	CHEVROLET	EXPRESS VAN	1GAWGEFF3G1232538	Unit # 1065	\$24,945	X	X	X		
Department: Jail							Total Number of Vehicles: 19				
2	2015	CHEVROLET	TAHOE	1GN5CAKC3FR554304	Unit # 1050	\$33,940	X	X	X		
23	2015	CHEVROLET	TAHOE	1GN5CAEC6FR500694	Unit # 1051	\$33,940	X	X	X		
25	2020	CHEVROLET	IMPALA	1G11Z5S35LU100574	Unit # 1162	\$24,444	X	X	X		
29	2006	CHEVROLET	IMPALA	2G1WB58KX69200950	Unit # 816	\$17,423	X				
131	2020	CHEVROLET	IMPALA	1G11Z5S30LU109644	Unit # 1163	\$24,444	X	X	X		
150	2023	CHEVROLET	TAHOE	1GN5CLED7PR178692	Unit # 1269	\$43,699	X	X	X		
156	2023	CHEVROLET	TAHOE	1GN5CLED7PR178398	Unit # 1268	\$43,699	X	X	X		
166	2013	CHEVROLET	TAHOE	1GN5C4E08ER229486	Unit # 1013	\$31,315	X	X	X		
180	2013	CHEVROLET	TAHOE	1GN5CAE03DR197575	Unit # 984	\$29,917	X	X	X		
250	2013	CHEVROLET	SILVERADO	3GCPGREA1DG321929	Unit # 991	\$21,545	X	X	X		
284	2013	CHEVROLET	TAHOE	1GN5C4E0XER171476	Unit # 1014	\$32,440	X	X	X		
300	2024	CHEVROLET	SILVERADO	1GCPAAEK6RZ164812	1302	\$41,789	X	X	X		X
Department: Juvenile Department							Total Number of Vehicles: 12				
3	2015	FORD	F250 PICKUP	1FDBF2A63FEA54177	Unit # 1032	\$26,130	X	X	X		
22	2012	OTHER	BIG TEX TRAILER	16VNX1224C2E26568	E0980	\$4,995	X	X	X		
24	2016	FORD	F250 PICKUP	1FTBF2A69GEC24869	Unit # 1072	\$25,945	X	X	X		
35	2019	CHEVROLET	SILVERADO	2GCRNCEC7K1165243	Unit # 1109	\$23,135	X	X	X		
47	2020	FORD	F150	1FTEW1C58LKDB1105	Unit # 1169	\$29,451	X	X	X		
73	2012	OTHER	HOMEMADE CARRY-ON TRAILER	4YMUL0618CTY02660	E0981	\$465	X	X	X		
103	2007	CHEVROLET	2500	1GCHC24K57E511069	Unit # 946	\$18,765	X				
106	2020	FORD	F150	1FTEW1C58LKDB1106	Unit # 1170	\$29,451	X	X	X		

ID #	Year	Make	Model	VIN #	Inventory #	Cost New	Auto Liability	Auto Physical Damage		POV	EQUIP
								Coll	Comp		
134	2011	FORD	F250	1FTBF2A60BE890426	Unit # 948	\$18,713	X	X	X		
153	2019	CHEVROLET	SILVERADO	2GCRNCECCK1219232	Unit # 1137	\$23,762	X	X	X		
160	2007	CHEVROLET	2500	1GCHC24K97E512211	Unit # 845	\$18,765	X				
169	2022	FORD	F250	1FDBF2A67NEF31269	Unit # 1265	\$41,587	X	X	X		
178	1989	OTHER	BIG TEX 6.5X10 TRAILER	16VAN101BK1B24073	E0262	\$1,100	X	X	X		
191	2020	CHEVROLET	TAHOE	1GN5CAEC4LR230852	Unit # 1180	\$38,365	X	X	X		
197	2009	FORD	F250	1FTNF20Y79EA51002	Unit # 903	\$18,071	X	X	X		
204	2019	CHEVROLET	SILVERADO	2GCRNCECCK1163907	Unit # 1110	\$23,135	X	X	X		
215	2005	OTHER	EBTYER UTILITY TRAILER	1WF200E1062056366	E0955	\$3,928	X	X	X		
263	2010	OTHER	BIG TEX DUMP TRAILER	16VPX1828A2354560	E0928	\$2,850	X	X	X		
301	2023	FORD	TRANSIT	1FDBR5P86PKA84813	1303	\$89,694	X	X	X		
302	2023	CHEVROLET	2500	1GB4YLE7XRF227342	1304	\$64,225	X	X	X		
304	2024	OTHER	PJ H52 TRAILER	4P53C2922R1409411	1308	\$18,825	X	X	X		
305	2023	CHEVROLET	SILVERADO	3GCUAED7PG318582	1309	\$51,612	X	X	X		X
Department: Maintenance							Total Number of Vehicles: 22				
53	2012	CHEVROLET	2500 HD PICKUP	1GC1CVCG4CF149613	Unit # 972	\$26,563	X	X	X		
61	2020	FORD	F150	1FTEW1E55LKD81108	Unit # 1178	\$49,631	X	X	X		
71	2010	CHEVROLET	IMPALA	2G1WD5EM1A1176982	Unit # 923	\$20,137	X	X	X		
128	2020	FORD	F150	1FTEW1E53LKD81107	Unit # 1177	\$49,631	X	X	X		
175	2022	FORD	EXPLORER	1FM5K8ACXNGA62796	Unit # 1267	\$47,288	X	X	X		
200	2013	CHEVROLET	IMPALA	2G1WD5E31D1258819	Unit # 999	\$25,578	X	X	X		
229	2012	CHEVROLET	TAHOE	1GNLC2E05CR208009	Unit # 974	\$29,982	X	X	X		
239	2022	FORD	F150	1FTFW1E57NFA93963	Unit # 1264	\$52,595	X	X	X		
259	2002	FORD	F450 CARGO TRUCK	1FDXF46F62ED27696	Unit # 1082	\$18,000	X	X	X		
311	2023	FORD	F150	1FTEW1C59PFD24184	1316	\$57,167	X	X	X		
Department: Medical Facility							Total Number of Vehicles: 10				
6	2020	FORD	F250	1FT1W2BTXLED09627	Unit # 1160	\$42,314	X	X	X		
14	2020	PETERBILT	PB-337 ASPHALT PATCH TRUCK	2NP2HJ8XXMM730878	Unit # 1152	\$90,268	X	X	X		
37	2015	CHEVROLET	2500 SILVERADO	1GC2CUEG4FZ118053	Unit # 1018	\$27,404	X	X	X		
41	2020	FORD	F250	1FT1W2BT1LED09628	Unit # 1167	\$42,314	X	X	X		
46	2023	FORD	F150	1FTFW1E59NKE83650	Unit # 1281	\$41,425	X	X	X		
50	2011	FORD	F450 TRAS TRUCK	1FDUF4GY3BEB81311	Unit # 947	\$26,383	X	X	X		
64	2020	CHEVROLET	SILVERADO	1GC4YPE7XLF155049	Unit # 1141	\$41,890	X	X	X		
68	2020	FORD	F250	1FT1W2BT3LE009829	Unit # 1161	\$42,314	X	X	X		
84	2009	INTERNATIONAL	7400	1HTWHAAT09J184027	Unit # 909	\$76,147	X	X	X		
88	2020	FORD	F250	1FDBF2A6XLEC63735	Unit # 1169	\$34,324	X	X	X		
94	2012	FREIGHTLINER	FREIGHTLINER	1FUJC5DV9C0BD9557	Unit # 955	\$97,939	X	X	X		

ID #	Year	Make	Model	VIN #	Inventory #	Cost New	Auto Liability	Auto Physical Damage		POV	EQUIP
								Coll	Comp		
104	2011	FORD	F750 TRUCK	3FRWF7FC7BV462197	Unit # 957	\$53,428	X	X	X		
147	2021	KENWORTH	TR800	INKZL40X8MJ461027	Unit # 1195	\$135,950	X	X	X		
181	2012	FREIGHTLINER	FREIGHTLINER	1FVHCYBSXCDBD8555	Unit # 958	\$90,189	X	X	X		
185	2009	CHEVROLET	2500	1GCHC43KX9F128612	Unit # 893	\$27,938	X	X	X		
189	2012	FREIGHTLINER	FREIGHTLINER	1FUJC5DV0CDBD8558	Unit # 956	\$97,939	X	X	X		
206	2015	CHEVROLET	SILVERADO	1GC1CUEGXF131080	Unit # 1035	\$28,149	X	X	X		
225	2012	FREIGHTLINER	COLUMBIA	1FUJA6CV69DAD2878	Unit # 882	\$93,306	X	X	X		
231	2006	PETERBILT	379 TRUCK	1XP5DU9X38N661274	Unit # 994	\$67,289	X	X	X		
237	2012	FREIGHTLINER	FREIGHTLINER	1FVHCYBS1CDBD8556	Unit # 959	\$90,189	X	X	X		
241	2020	FORD	F250	1FT1W2BTLXED09630	Unit # 1186	\$42,314	X	X	X		
Department: Operations									Total Number of Vehicles: 21		
118	2020	FORD	TRANSIT CONNECT	NM0LS6F25L1467302	Unit # 1175	\$29,853	X	X	X		
Department: Purchasing									Total Number of Vehicles: 1		
10	1900	OTHER	TYMCO SWEEPER	3HAE4MMN0NL66558	Unit # 1230	\$284,184	X	X	X		
12	2005	MACK	CHN613	1M1AJ06Y05N002078	Unit # 797	\$70,119	X	X	X		
15	1992	OTHER	BIG TEX 8X18 TRAILER	16VPX1826N1E28728	E0525	\$1,370	X	X	X		
16	2000	OTHER	EAGLE 130BBL WATER TRAILER	5AGEV422XYS266001	E0586	\$24,325	X	X	X		
34	2008	FORD	F250 PICK UP TRUCK	1FTSW20Y88ED42592	Unit # 876	\$20,173	X				
44	1995	OTHER	HOMEMADE UTILITY TRAILER	1995028	E0028	\$1,200	X	X	X		
48	2009	OTHER	CPS BOTTOM DUMP TRAILER	5MC1116249P010048	E0898	\$25,650	X	X	X		
66	2006	FORD	F250	1FTNF20566EA33270	Unit # 811	\$15,733	X				
96	1971	OTHER	HOMEMADE UTILITY TRAILER	TBD9998	E0263	\$1,200	X	X	X		
99	2008	FORD	F250 PICK UP TRUCK	1FTNF20Y88ED42591	Unit # 877	\$17,631	X				
130	1999	FREIGHTLINER	FL 70 TRUCK	1FV6HFBA1XHF04149	Unit # 691	\$33,875	X				
154	2019	OTHER	UTILITY UT-12700LB TRAILER	TR224220	E01130	\$1,500	X	X	X		
164	1989	OTHER	HOMEMADE WATER RACK TRAILER	10059	E0059	\$500	X	X	X		
168	1992	OTHER	LEDWELL TRAILER	1L9GA72A5NL033229	E0489	\$26,150	X	X	X		
188	2007	MACK	CHN613	1M1AJ06Y37N010047	Unit # 860	\$82,179	X	X	X		
202	1998	MACK	RD690S TRUCK	1M2P264C7VM027578	Unit # 649	\$70,446	X	X	X		
209	2005	OTHER	EAGLE WATER TRAILER	5AGEV42205S334401	E0812	\$32,847	X	X	X		
214	2006	CHEVROLET	2500	1GCHC29U26E220588	Unit # 822	\$18,591	X				
219	1998	OTHER	EAGLE 130BBL WATER TRAILER	5AGEV4125WS252201	E0556	\$26,960	X	X	X		
220	2005	MACK	CHN613	1M1AJ06Y25N002079	Unit # 798	\$68,900	X	X	X		
224	2012	OTHER	CPS DUMP TRAILER	5MC1116248P009660	E0875	\$27,929	X	X	X		
240	2005	MACK	CV713 TRUCK	1M2AG11C55M017841	Unit # 794	\$63,350	X	X	X		
247	2004	CHEVROLET	2500	1GCHC24UX4E310538	Unit # 788	\$19,149	X				
278	2012	OTHER	HOMEMADE 8X20 TANDEM TRAILER	13XHT832561008999	E0838	\$3,600	X	X	X		

ID #	Year	Make	Model	VIN #	Inventory #	Cost New	Auto Liability	Auto Physical Damage		POV	EQUIP
								Coll	Comp		
279	2012	OTHER	PITTS LOWBOY TRAILER	5JYLB35276P051401	E0636	\$40,675	X	X	X		
280	2019	OTHER	TAC TANK LEEBOY TRAILER	1B9AA1117K1309144	E01148	\$18,210	X	X	X		
286	2004	FORD	F750 TRUCK	3FRXF75214V605273	Unit # 781	\$35,992	X				
288	2003	MACK	RD688S TRUCK	1M2P257Y73M067078	Unit # 748	\$66,700	X	X	X		
296	2023	CHEVROLET	SILVERADO	2GCUDAED7P1135918	1298	\$46,300	X	X	X		
297	2023	TOYOTA	HIGHLANDER	5T0K0RAH8PS512800	1299	\$41,013	X	X	X		
299	2023	CHEVROLET	SILVERADO 1500	1GCUDAED6PZ180050	1300	\$51,114	X	X	X		
303	2023	CHEVROLET	3500 FLAT BED	1GB3WRE74PF245868	1307	\$70,671	X	X	X		X
309	2023	CHEVROLET	1500	2GCUDDED9P1149045	1314	\$52,035	X	X	X		
313	2023	PETERBILT	EZ-LINER	3BPPHM6X3RF596089	1318	\$507,943	X	X	X		
Department: Road & Bridge								Total Number of Vehicles: 34			
133	2002	FORD	E250	1FTNE24LX2HB35194	Unit # 742	\$16,617	X				
198	2010	CHEVROLET	EXPRESS VAN	1GCUGAD48A1131446	Unit # 924	\$18,940	X	X	X		
Department: Senior Services								Total Number of Vehicles: 2			
7	2021	CHEVROLET	TAHOE	1GBSCLDXMR418388	Unit # 1220	\$55,564	X	X	X		
8	2021	DODGE	CHARGER	2C3CDXAT0MH668440	Unit # 1246	\$36,083	X	X	X		
9	2022	CHEVROLET	TAHOE	1GNSCLDXNR239885	Unit # 1271	\$53,633	X	X	X		
13	2021	CHEVROLET	TAHOE	1GBSCLDXMR418514	Unit # 1213	\$55,564	X	X	X		
17	2005	GMC	YUKON	1GKEC13Z35R125157	Unit # 982	\$16,313	X	X	X		
26	2021	CHEVROLET	TAHOE	1GNSCLDXMR4180514	Unit # 1237	\$46,798	X	X	X		
27	2021	CHEVROLET	TAHOE	1GBSCLDXMR418427	Unit # 1229	\$55,564	X	X	X		
28	2014	CHEVROLET	IMPALA	2G1WDSE38E1166415	Unit # 1025	\$20,445	X	X	X		
30	2023	FORD	TRANSIT VAN	1FBAX2Y85PKA22553	Unit # 1289	\$61,079	X	X	X		
31	2021	CHEVROLET	TAHOE	1GBSCLDXMR418762	Unit # 1211	\$55,564	X	X	X		
33	2021	DODGE	CHARGER	2C3CDXAT5MH6684620	Unit # 1250	\$36,083	X	X	X		
38	2021	DODGE	CHARGER	2C3CDXAT2MH668435	Unit # 1252	\$36,083	X	X	X		
40	2021	CHEVROLET	TAHOE	1GBSCLDXMR418663	Unit # 1234	\$55,564	X	X	X		
51	2021	DODGE	CHARGER	2C3CDXAT7MH684621	Unit # 1249	\$36,083	X	X	X		
52	2022	CHEVROLET	TAHOE	1GNSCLDXNR262255	Unit # 1275	\$53,633	X	X	X		
55	2015	CHEVROLET	TAHOE	1GNLC2ECXFR569999	Unit # 1042	\$29,398	X	X	X		
56	2021	CHEVROLET	TAHOE	1GBSCLDXMR418691	Unit # 1217	\$55,564	X	X	X		
59	2016	CHEVROLET	TAHOE	1GNLCDEC9GR331266	Unit # 1066	\$34,655	X	X	X		
60	2021	CHEVROLET	TAHOE	1GBSCLDXMR418436	Unit # 1232	\$55,564	X	X	X		
69	2020	CHEVROLET	TAHOE	1GNLCDEC0LR259074	Unit # 1187	\$46,698	X	X	X		
74	2018	CHEVROLET	TAHOE	1GNLCDECXJR333101	Unit # 1066	\$32,270	X	X	X		
75	2019	DODGE	CHARGER	2C3CDXAT3KH579345	Unit # 1125	\$33,169	X	X	X		
76	2019	CHEVROLET	TAHOE	1GNLCDEC4KR286794	Unit # 1135	\$43,936	X	X	X		

ID #	Year	Make	Model	VIN #	Inventory #	Cost New	Auto Liability	Auto Physical Damage		POV	EQUIP
								Coll	Comp		
80	2021	CHEVROLET	TAHOE	1GBSCLED7MR418459	Unit # 1236	\$55,564	X	X	X		
81	2021	CHEVROLET	TAHOE	1GBSCLED9MR418396	Unit # 1228	\$55,564	X	X	X		
82	2021	CHEVROLET	TAHOE	1GBSCLED7MR418445	Unit # 1212	\$55,564	X	X	X		
83	2020	CHEVROLET	TAHOE	1GNLCDEC8LR298495	Unit # 1186	\$46,698	X	X	X		
90	2019	CHEVROLET	TAHOE	1GNLCDEC0KR288400	Unit # 1133	\$43,936	X	X	X		
93	2021	CHEVROLET	TAHOE	1GBSCLEDXMR418469	Unit # 1215	\$55,564	X	X	X		
95	2017	CHEVROLET	TAHOE	1GNLCDEC7HR203027	Unit # 1080	\$32,410	X	X	X		
97	2019	DODGE	CHARGER	2C3CDXAT9KH579348	Unit # 1123	\$33,169	X	X	X		
100	2021	CHEVROLET	TAHOE	1GBSCLED8MR418406	Unit # 1224	\$55,564	X	X	X		
102	2021	CHEVROLET	TAHOE	1GBSCLED9MR418740	Unit # 1233	\$55,564	X	X	X		
108	2015	CHEVROLET	TAHOE	1GNLC2EC4FR569884	Unit # 1041	\$29,398	X	X	X		
110	2016	CHEVROLET	TAHOE	1GNLCDEC4GR333250	Unit # 1075	\$34,655	X	X	X		
111	2022	CHEVROLET	TAHOE	1GNSCLED5NR239650	Unit # 1274	\$53,633	X	X	X		
112	2015	CHEVROLET	TAHOE	1GNLC2EC1FR262642	Unit # 1040	\$28,040	X	X	X		
113	2021	CHEVROLET	TAHOE	1GBSCLED5MR418699	Unit # 1209	\$55,564	X	X	X		
114	2021	DODGE	CHARGER	2C3CDXAT4MH668439	Unit # 1251	\$36,083	X	X	X		
115	2021	CHEVROLET	TAHOE	1GBSCLED6MR418789	Unit # 1226	\$55,564	X	X	X		
116	2015	CHEVROLET	IMPALA	2G1WD5E35E1166954	Unit # 1019	\$20,445	X	X	X		
119	2023	FORD	TRANSIT VAN	1FBAX2Y80PKA21942	Unit # 1288	\$61,079	X	X	X		
121	2009	CHEVROLET	TAHOE	1GNEC03009R204404	Unit # 912	\$30,118	X	X	X		
122	2002	FORD	F150	1FTRX17W12NC00460	Unit # 733	\$16,372	X				
124	2019	FORD	F150	1FTEW1C51KKD84217	Unit # 1131	\$27,356	X	X	X		
126	2009	FORD	F150	1FTPF12VX9KB49237	Unit # 894	\$16,207	X	X	X		
129	2021	CHEVROLET	TAHOE	1GBSCLED8MR418809	Unit # 1225	\$55,564	X	X	X		
132	2020	CHEVROLET	TAHOE	1FD7W2A62LEC63699	Unit # 1185	\$34,324	X	X	X		
137	2014	CHEVROLET	IMPALA	2G1WD5E39E1167203	Unit # 1020	\$20,445	X	X	X		
138	2015	CHEVROLET	TAHOE	1GNLC2EC2FR572122	Unit # 1046	\$29,518	X	X	X		
139	2021	CHEVROLET	TAHOE	1GBSCLED0MR418576	Unit # 1219	\$55,564	X	X	X		
140	2021	CHEVROLET	TAHOE	1GBSCLED7MR418770	Unit # 1227	\$55,564	X	X	X		
141	2018	CHEVROLET	TAHOE	1GNLCDEC1JR217995	Unit # 1093	\$32,060	X	X	X		
144	2015	CHEVROLET	CAPRICE PPV PATROL	6G3NS5U23FL111970	Unit # 1056	\$26,555	X	X	X		
145	2014	CHEVROLET	IMPALA	2G1WD5E37E1166387	Unit # 1022	\$20,445	X	X	X		
149	2022	FORD	F550	1FDUF5HT4NDA12823	Unit # 1279	\$328,826	X	X	X		
151	2022	CHEVROLET	TAHOE	1GNSCLED0NR262608	Unit # 1272	\$53,633	X	X	X		
155	2019	DODGE	CHARGER	2C3CDXAT9KH579346	Unit # 1124	\$33,169	X	X	X		
158	2020	CHEVROLET	TAHOE	1GNLCDEC4LR299742	Unit # 1188	\$46,698	X	X	X		
161	2013	CHEVROLET	IMPALA	2G1WD5E32D1258022	Unit # 1000	\$25,743	X	X	X		

ID #	Year	Make	Model	VIN #	Inventory #	Cost New	Auto Liability	Auto Physical Damage		POV	EQUIP
								Coll	Comp		
163	2015	CHEVROLET	TAHOE	1GNLC2EC8FR606130	Unit # 1053	\$33,320	X	X	X		
165	2021	CHEVROLET	TAHOE	1GBSCLED3MR418474	Unit # 1208	\$55,564	X	X	X		
170	2020	CHEVROLET	TAHOE	1GNLCDEC2LR290402	Unit # 1189	\$46,698	X	X	X		
173	2016	CHEVROLET	TAHOE	1GNLCDEC1GR330080	Unit # 1069	\$34,655	X	X	X		
174	2021	DODGE	CHARGER	2C3CDXAT6MH668443	Unit # 1248	\$36,083	X	X	X		
176	2013	CHEVROLET	IMPALA	2G1WD6E3401258460	Unit # 1001	\$25,743	X	X	X		
183	2009	CHEVROLET	IMPALA	2G1WS57M791274252	Unit # 904	\$19,461	X	X	X		
186	2021	DODGE	CHARGER	2C3CDXAT4MH668442	Unit # 1247	\$36,083	X	X	X		
190	2021	CHEVROLET	TAHOE	1GBSCLED4MR418418	Unit # 1214	\$55,564	X	X	X		
194	2016	CHEVROLET	TAHOE	1GNLCDEC2GR331111	Unit # 1068	\$34,655	X	X	X		
199	2008	CHEVROLET	IMPALA	2G1WS553781250199	Unit # 879	\$18,450	X				
201	2021	CHEVROLET	TAHOE	1GBSCLED5MR418508	Unit # 1218	\$55,564	X	X	X		
203	2008	TOYOTA	TUNDRA PICKUP	5TFRV54108X036167	Unit # 1242	\$0	X				
205	2016	CHEVROLET	TAHOE	1GNLCDEC5GR333239	Unit # 1073	\$34,655	X	X	X		
207	2023	FORD	TRANSIT VAN	1FBAX2Y80PKA23383	Unit # 1287	\$61,079	X	X	X		
216	2022	CHEVROLET	TAHOE	1GNLCLED8NR239898	Unit # 1270	\$53,633	X	X	X		
217	2021	CHEVROLET	TAHOE	1GBSCLED9MR418656	Unit # 1216	\$55,564	X	X	X		
218	2021	CHEVROLET	TAHOE	1GBSCLED0MR418528	Unit # 1207	\$55,564	X	X	X		
221	2013	CHEVROLET	CAPRICE	6G1MK5U27DL819298	Unit # 992	\$29,788	X	X	X		
223	2019	CHEVROLET	TAHOE	1GNLCDEC6KR284996	Unit # 1134	\$43,936	X	X	X		
227	2008	INTERNATIONAL	7400 ASSAULT VEHICLE	W911M732410011	Unit # 1015	\$5,000	X	X	X		
230	2021	DODGE	CHARGER	2C3CDXAT2MH668441	Unit # 1245	\$36,083	X	X	X		
234	2020	CHEVROLET	TAHOE	1GNLCDEC3LR296055	Unit # 1190	\$45,190	X	X	X		
236	2011	FORD	F150	1FTFW1EF58FB25104	Unit # 1095	\$12,600	X	X	X		
243	2016	CHEVROLET	TAHOE	1GNLCDEC6GR333217	Unit # 1074	\$34,655	X	X	X		
244	2019	CHEVROLET	TAHOE	1GNLCDECXKR287934	Unit # 1136	\$43,936	X	X	X		
246	2020	CHEVROLET	TAHOE	1GNLCDEC6LR248288	Unit # 1184	\$50,186	X	X	X		
249	2013	CHEVROLET	TAHOE	1GNLC2E08DR346837	Unit # 1011	\$38,452	X	X	X		
252	2021	CHEVROLET	TAHOE	1GBSCLED3MR418720	Unit # 1235	\$55,564	X	X	X		
257	2021	CHEVROLET	TAHOE	1GBSCLED3MR418958	Unit # 1231	\$55,564	X	X	X		
260	2012	CHEVROLET	IMPALA	2G1WD5E37C1198320	Unit # 977	\$21,540	X	X	X		
265	2019	DODGE	CHARGER	2C3CDXAT0KH579349	Unit # 1126	\$33,169	X	X	X		
266	2011	CHEVROLET	IMPALA	2G1WD5EM2B1213832	Unit # 950	\$20,186	X	X	X		
267	2021	CHEVROLET	TAHOE	1GBSCLEDXMR418634	Unit # 1223	\$55,564	X	X	X		
269	2021	FORD	TRANSIT VAN	1FTBW3XG5MKA38989	Unit # 1203	\$75,525	X	X	X		
272	2020	CHEVROLET	TAHOE	1GNLCDEC8LR293619	Unit # 1192	\$45,190	X	X	X		
274	2020	CHEVROLET	TAHOE	1GNLCDCRXLR295808	Unit # 1191	\$45,190	X	X	X		

ID #	Year	Make	Model	VIN #	Inventory #	Cost New	Auto Liability	Auto Physical Damage		POV	EQUIP
								Coll	Comp		
275	2002	FORD	F150	1FTFRX17W32NC0046	Unit # 732	\$16,372	X				
276	2008	CHEVROLET	IMPALA	2G1WS53081249699	Unit # 878	\$18,450	X				
281	2016	FORD	E450 VAN	1FDXE4FS3CDC45812	Unit # 1077	\$84,337	X	X	X		
283	2021	CHEVROLET	TAHOE	1GBSCLEDXMR418780	Unit # 1210	\$55,564	X	X	X		
290	2021	CHEVROLET	TAHOE	1GNSCLED3MR481835	Unit # 1238	\$46,798	X	X	X		
291	2022	CHEVROLET	TAHOE	1GNSCLED4NR239817	Unit # 1273	\$53,633	X	X	X		
292	2014	CHEVROLET	IMPALA	2G1WD5E31E1167177	Unit # 1021	\$20,578	X	X	X		
306	2023	DODGE	CHARGER	2C3CDXAT1PH572322	1310	\$37,580	X	X	X		X
307	2023	DODGE	CHARGER	2C3CDXAT5PH576485	1311	\$37,580	X	X	X		X
308	2023	DODGE	CHARGER	2C3CDXTAT7PH57648	1312	\$37,580	X	X	X		X
315	2023	CHEVROLET	SILVERADO	3GCPACEK3PG366161	1319	\$44,885	X	X	X		
Department: Sheriff										Total Number of Vehicles: 108	

Totals	Total Number of Vehicles
Auto Liability	315
Auto Physical Damage, Collision	289
Auto Physical Damage, Comprehensive	288

**DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS001331300040
AMENDMENT NO. 1**

The **DEPARTMENT OF STATE HEALTH SERVICES** (“DSHS” or “System Agency”) and **ECTOR COUNTY** (“Grantee”), Parties to that certain Immunization/Locals Grant Program Contract, effective September 1, 2023, and denominated DSHS Contract No. HHS001331300040 (the Contract), now want to amend the Contract.

WHEREAS, DSHS wants to exercise its option to extend the Contract term for an additional year, representing the first of four extension options (“First Extension Option”);

WHEREAS, DSHS wants to add funds to the Contract to pay for services provided during the extended term; and

WHEREAS, DSHS wants to revise the Statement of Work and replace Attachments C and D.

Now, THEREFORE, the Parties agree as follows:

1. The Contract is extended in accordance with SECTION III, DURATION, of the Contract for an additional year. The First Extension Option shall begin on September 1, 2024, and ends on August 31, 2025, unless terminated sooner.
2. SECTION V, BUDGET AND INDIRECT COST RATE, of the Contract is amended to increase funding in the amount of \$191,873.00 for State Fiscal Year 2025 (“FY 2025”). The total not-to-exceed amount of this Contract is increased to **\$383,746.00**. All expenditures of the additional funds must conform with **ATTACHMENT B-1, FY 2025 BUDGET**.
3. ATTACHMENT A, STATEMENT OF WORK, of the Contract is deleted in its entirety and replaced with ATTACHMENT A-1, FY 2025 STATEMENT OF WORK.
4. ATTACHMENT B, BUDGET, of the Contract is supplemented with the addition of ATTACHMENT B-1, FY 2025 BUDGET.
5. ATTACHMENT C, HHS CONTRACT AFFIRMATIONS v. 2.2 (MAY 2022), is deleted in its entirety and replaced with ATTACHMENT C-1, HHS CONTRACT AFFIRMATIONS v. 2.3 (AUGUST 2023) which is attached to this Amendment and incorporated and made part of the Contract for all purposes.
6. ATTACHMENT D, HHS UNIFORM TERMS AND CONDITIONS – GRANT v. 3.2 (July 2022) is deleted in its entirety and replaced with ATTACHMENT D-1, HHS UNIFORM TERMS AND CONDITIONS-GRANT v. 3.3 (NOVEMBER 2023), which is attached to this Amendment and incorporated and made part of the Contract for all purposes.

7. ATTACHMENT J-1, FISCAL FEDERAL FUNDING AND ACCOUNTABILITY ACT (FFATA) CERTIFICATION FORM, is attached to this Amendment and incorporated into the Contract for all purposes.
8. This Amendment shall be effective September 1, 2024.
9. Except as modified by this Amendment, all terms and conditions of the Contract, as amended, shall remain in full force and effect.
10. Any further revisions to the Contract shall be by written agreement of the Parties.

SIGNATURE PAGE FOLLOWS

**SIGNATURE PAGE FOR AMENDMENT NO. 1
DSHS CONTRACT NO. HHS001331300040**

**DEPARTMENT OF STATE HEALTH
SERVICES**

ECTOR COUNTY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date of Signature: _____

Date of Signature _____

**THE FOLLOWING DOCUMENTS ARE ATTACHED TO THIS AMENDMENT AND THEIR TERMS ARE
INCORPORATED INTO THE CONTRACT BY REFERENCE:**

ATTACHMENT A-1 - FY 2025 STATEMENT OF WORK

ATTACHMENT B-1 - FY 2025 BUDGET

ATTACHMENT C-1 - HHS CONTRACT AFFIRMATIONS V. 2.3 (AUGUST 2023)

**ATTACHMENT D-1- HHS UNIFORM TERMS AND CONDITIONS-GRANT V. 3.3
(NOVEMBER 2023)**

**ATTACHMENT J-1 - FISCAL FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT
(FFATA) CERTIFICATION FORM**

ATTACHMENTS FOLLOW

ATTACHMENT A-1 FY 2025 STATEMENT OF WORK

I. GRANTEE RESPONSIBILITIES

Grantee shall:

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

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

II. REPORTING REQUIREMENTS

Grantee shall:

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

Report Type	Reporting Period	Report Due Date
Programmatic	09/01/2024 to 11/30/2024	12/31/2024
Programmatic	12/01/2024 to 02/28/2025	03/31/2025
Programmatic	03/01/2025 to 05/31/2025	06/30/2025
Programmatic	06/01/2025 to 08/31/2025	09/30/2025

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

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

Period Covered	Due Date
September 1, 2024 – February 28, 2025	March 31, 2025
March 1, 2025 - August 31, 2025	September 30, 2025

- E. Maintain an inventory of equipment, supplies defined as Controlled Assets, and real property. Submit an annual cumulative report of the equipment and other property on HHS System Agency Grantee's Property Inventory Report to the designated DSHS Contract Manager and fsoequip@dshs.texas.gov by email not later than October 15 of each year. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of \$500.00 or more, but less than \$5,000.00: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems,

medical and laboratory equipment, and media equipment. Controlled Assets are considered Supplies.

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

III. RULES

Grantee shall:

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

IV. PERFORMANCE MEASURES

System Agency will monitor the Grantee's performance of the requirements in this **ATTACHMENT A-1** and compliance with the Contract's terms and conditions.

V. INVOICE AND PAYMENT

Grantee shall request monthly payments by the 30th day following the service month using the State of Texas Purchase Voucher (Form B-13) located at <http://www.dshs.texas.gov/grants/forms.shtm>. System Agency will issue reimbursement payments to Grantees on a monthly basis for reported actual cash disbursements which are supported by adequate documentation. Invoices must be submitted monthly to prevent delays in subsequent months. Grantees that do not incur expenses within a month are required to submit a "zero dollar" invoice on a monthly basis. Grantee must submit a final close-out invoice and final financial status report no later than 30 days following the end of the Contract term. Invoices received more than 30 days after the end of the Contract term are subject to denial of payment. Grantee shall electronically submit all invoices with supporting documentation to: invoices@dshs.texas.gov and CMSinvoices@dshs.texas.gov with a copy to the assigned DSHS Contract Representative identified in the Signature Document.

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

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

- B. DSHS will pay Grantee monthly on a cost reimbursement basis and in accordance with **ATTACHMENT B-1, FY 2025 BUDGET**, of this Contract. DSHS will reimburse Grantee only for allowable and reported expenses incurred within the grant term.

ATTACHMENT B-1

FY 2025 BUDGET

Budget Categories	Budget for FY 2025 September 1, 2024 - August 31, 2025
Personnel	\$131,627.00
Fringe	\$60,246.00
Travel	\$0.00
Equipment	\$0.00
Supplies	\$0.00
Contractual	\$0.00
Other	\$0.00
Total Direct	\$191,873.00
Indirect	\$0.00
Total	\$191,873.00

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HEALTH AND HUMAN SERVICES
Contract Number HHS001331300040 Ector
Attachment C CONTRACT AFFIRMATIONS

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

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

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

2. Complete and Accurate Information

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

3. Public Information Act

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

4. Contracting Information Requirements

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

5. Assignment

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

6. Terms and Conditions

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

7. HHS Right to Use

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

8. Release from Liability

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

9. Dealings with Public Servants

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

10. Financial Participation Prohibited

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

11. Prior Disaster Relief Contract Violation

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

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

12. Child Support Obligation

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

13. Suspension and Debarment

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

14. Excluded Parties

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

15. Foreign Terrorist Organizations

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

16. Executive Head of a State Agency

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

17. Human Trafficking Prohibition

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

18. Franchise Tax Status

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

19. Debts and Delinquencies

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

20. Lobbying Prohibition

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

21. Buy Texas

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

22. Disaster Recovery Plan

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

23. Computer Equipment Recycling Program

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

24. Television Equipment Recycling Program

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

25. Cybersecurity Training

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

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

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

27. **No Conflicts of Interest**

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

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

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

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

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

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

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

29. Antitrust

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

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

30. Legal and Regulatory Actions

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

31. No Felony Criminal Convictions

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

32. Unfair Business Practices

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

33. Entities that Boycott Israel

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

34. E-Verify

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

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

35. Former Agency Employees – Certain Contracts

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

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

If this Contract is for consulting services,

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

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

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

37. **Abortion Funding Limitation**

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

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

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

38. **Funding Eligibility**

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

39. Gender Transitioning and Gender Reassignment Procedures and Treatments for Certain Children – Prohibited Use of Public Money; Prohibited State Health Plan Reimbursement.

Contractor understands, acknowledges, and agrees that, pursuant to Section 161.704 of the Texas Health and Safety Code (eff. Sept. 1, 2023), public money may not directly or indirectly be used, granted, paid, or distributed to any health care provider, medical school, hospital, physician, or any other entity, organization, or individual that provides or facilitates the provision of a procedure or treatment to a child that is prohibited under Section 161.702 of the Texas Health and Safety Code. Contractor also understands, acknowledges, and agrees that, pursuant to Section 161.705 of the Texas Health and Safety Code (eff. Sept. 1, 2023), HHSC may not provide Medicaid reimbursement and the child health plan program established under Chapter 62 may not provide reimbursement to a physician or health care provider for provision of a procedure or treatment to a child that is prohibited under Section 161.702 of the Texas Health and Safety Code. Contractor certifies that it is not ineligible to contract with System Agency under the terms of Chapter 161, Subchapter X, of the Texas Health and Safety Code.

40. 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.

41. 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.

42. COVID-19 Vaccinations

Contractor understands, acknowledges, and agrees that, pursuant to Article II of the General Appropriations Act, none of the General Revenue Funds appropriated to the Department of State Health Services (DSHS) may be used for the purpose of promoting or advertising COVID-19 vaccinations in the 2024-25 biennium. It is also the intent of the legislature that to the extent allowed by federal law, any federal funds allocated to DSHS shall be expended for activities other than promoting or advertising COVID-19 vaccinations. 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.

43. Entities that Boycott Energy Companies

In accordance with Senate Bill 13, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 (eff. Sept. 1, 2023, Section 2276.002, pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.) 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 (eff. Sept. 1, 2023, Section 2276.002, pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.) 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.

44. 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.

45. 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.

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

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

47. 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) (eff. Apr. 1, 2025, Section 544.0106, pursuant to House Bill 4611, Acts 2023, 88th Leg., R.S.) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

48. 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.

49. Foreign-Owned Companies in Connection with Critical Infrastructure

If Texas Government Code, Section 2274.0102(a)(1) (eff. Sept. 1, 2023, Section 2275.0102(a)(1), pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.) (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 (eff. Sept. 1, 2023, Section 2275.0102, pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.), 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 (eff. Sept. 1, 2023, Section 2275.0103, pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.), or (2) headquartered in any of those countries.

50. 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.

51. 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.

52. 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.

53. 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.

54. 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.

55. 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.

56. Equal Employment Opportunity

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

57. 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).

58. 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:

Dustin Fawcett

Legal Name of Contractor

Ector County

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

Ector County

Texas County(s) for Assumed Business Name (d/b/a or 'doing business as')
Attach Assumed Name Certificate(s) filed with the Texas Secretary of State and Assumed Name Certificate(s), if any, for each Texas County Where Assumed Name Certificate(s) has been filed.

Signature of Authorized Representative

Date Signed

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

Title of Authorized Representative

Physical Street Address

City, State, Zip Code

Mailing Address, if different

City, State, Zip Code

Phone Number

Fax Number

Email Address

DUNS Number

Federal Employer Identification Number

Texas Identification Number (TIN)

Texas Franchise Tax Number

Texas Secretary of State Filing Number

SAM.gov Unique Entity Identifier (UEI)



TEXAS

Health and Human Services

Health and Human Services (HHS)

Uniform Terms and Conditions - Grant

Version 3.3

Published and Effective – November 2023

Responsible Office: Chief Counsel

ABOUT THIS DOCUMENT

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

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

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ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.1 DEFINITIONS

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

“Amendment” means a written agreement, signed by the Parties, which documents changes to the Grant Agreement.

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

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

“DSHS” means the Department of State Health Services.

“Effective Date” means the date on which the Grant Agreement takes effect.

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

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

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

“HHSC” means the Texas Health and Human Services Commission.

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

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

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

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

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

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

“Signature Document” means the document executed by all Parties for this Grant Agreement.

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

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

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

“State of Texas *Textravel*” means the Texas Comptroller of Public Accounts’ website relative to travel reimbursements under this Contract, if any.

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

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

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

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

1.2 INTERPRETIVE PROVISIONS

- A. The meanings of defined terms include the singular and plural forms.
- B. The words “hereof,” “herein,” “hereunder,” and similar words refer to this Grant Agreement as a whole and not to any particular provision, section, attachment, or schedule of this Grant Agreement unless otherwise specified.
- C. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Grant Agreement, (i) references to contracts (including this Grant Agreement) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Grant Agreement, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.

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

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

ARTICLE II. PAYMENT PROVISIONS

2.1 PROMPT PAYMENT

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

2.2 TAXES

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

2.3 ANCILLARY AND TRAVEL EXPENSES

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

2.4 BILLING

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

2.5 USE OF FUNDS

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

2.6 USE FOR MATCH PROHIBITED

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

2.7 PROGRAM INCOME

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

2.8 NONSUPPLANTING

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

2.9 INDIRECT COST RATES

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

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 EXCESS OBLIGATIONS PROHIBITED

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

3.2 NO DEBT AGAINST THE STATE

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

3.3 DEBTS AND DELINQUENCIES

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

3.4 REFUNDS AND OVERPAYMENTS

- A. At its sole discretion, the System Agency may (i) withhold all or part of any payments to Grantee to offset overpayments, unallowable or ineligible costs made to the Grantee, or if any required financial status report(s) is not submitted by the due date(s); or (ii) require Grantee to promptly refund or credit - within thirty (30) calendar days of written notice – to System Agency any funds erroneously paid by System Agency which are not expressly authorized under the Grant Agreement.
- B. "Overpayments" as used in this Section include payments (i) made by the System Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Grant Agreement, including any unapproved expenditures. Grantee understands and agrees that it shall be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Grant Agreement. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Grant Agreement.

ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS

4.1 ALLOWABLE COSTS

- A. Allowable Costs are restricted to costs that are authorized under Texas Uniform Grant Management Standards (TxGMS) and applicable state and federal rules and laws. This Grant Agreement is subject to all applicable requirements of TxGMS, including the

criteria for Allowable Costs. Additional federal requirements apply if this Grant Agreement is funded, in whole or in part, with federal funds.

- B. System Agency will reimburse Grantee for actual, allowable, and allocable costs incurred by Grantee in performing the Project, provided the costs are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Grant Agreement. At its sole discretion, the System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. The System Agency may take repayment (recoup) from remaining funds available under this Grant Agreement in amounts necessary to fulfill Grantee's repayment obligations. Grantee and all payments received by Grantee under this Grant Agreement are subject to applicable cost principles, audit requirements, and administrative requirements including applicable provisions under 2 CFR 200, 48 CFR Part 31, and TxGMS.
- C. OMB Circulars will be applied with the modifications prescribed by TxGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

4.2 AUDITS AND FINANCIAL STATEMENTS

A. Audits

- i. Grantee understands and agrees that Grantee is subject to any and all applicable audit requirements found in state or federal law or regulation or added by this Grant Agreement
- ii. HHS Single Audit Unit will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the form within thirty (30) calendar days after receipt of notice, Grantee may be subject to sanctions and remedies for non-compliance.
- iii. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The federal threshold amount includes federal funds passed through by way of state agency awards.
- iv. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in state funds awarded, Grantee shall have a single audit or program-specific audit in accordance with TxGMS. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and TxGMS.
- v. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or TxGMS, as applicable, for their program-specific audits.
- vi. Each Grantee required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with applicable provisions of 2 CFR 200 and TxGMS.

B. Financial Statements.

Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements for the audit period.

4.3 SUBMISSION OF AUDITS AND FINANCIAL STATEMENTS

A. Audits.

Due the earlier of 30 days after receipt of the independent certified public accountant's

report or nine months after the end of the fiscal year, Grantee shall submit one electronic copy of the single audit or program-specific audit to the System Agency via:

- i. HHS portal at <https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau> or,
- ii. Email to: single_audit_report@hhsc.state.tx.us.

B. Financial Statements.

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

- i. HHS portal at <https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau>; or,
- ii. Email to: single_audit_report@hhsc.state.tx.us.

ARTICLE V. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

5.1 WARRANTY

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

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

5.2 GENERAL AFFIRMATIONS

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

5.3 FEDERAL ASSURANCES

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

5.4 FEDERAL CERTIFICATIONS

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

5.5 STATE ASSURANCES

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

ARTICLE VI. INTELLECTUAL PROPERTY

6.1 OWNERSHIP OF WORK PRODUCT

- A. All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency.
- B. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Grantee hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing.
- C. Grantee agrees to execute all papers and to perform such other acts as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned.
- D. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.
- E. The foregoing does not apply to Incorporated Pre-existing Works or Third Party IP that are incorporated in the Work Product by Grantee. Grantee shall provide System Agency access during normal business hours to all Grantee materials, premises, and computer files containing the Work Product.

6.2 GRANTEE'S PRE-EXISTING WORKS

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

6.3 THIRD PARTY IP

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

6.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS

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

6.5 DELIVERY UPON TERMINATION OR EXPIRATION

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

6.6 SURVIVAL

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

6.7 SYSTEM AGENCY DATA

- A. As between the Parties, all data and information acquired, accessed, or made available to Grantee by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Grantee in the course of providing data processing services in connection with Grantee's performance hereunder (the "System Agency Data"), is owned solely by System Agency.
- B. Grantee has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Grantee to fulfill its obligations under the Grant Agreement or as authorized in advance in writing by System Agency.
- C. For the avoidance of doubt, Grantee is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.
- D. Grantee shall make System Agency Data available to System Agency, including to

System Agency's designated vendors, as directed in writing by System Agency. The foregoing shall be at no cost to System Agency.

- E. Furthermore, the proprietary nature of Grantee's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Grantee's performance of its obligations hereunder.

ARTICLE VII. PROPERTY

7.1 USE OF STATE PROPERTY

- A. Grantee is prohibited from using State Property for any purpose other than performing Services authorized under the Grant Agreement.
- B. State Property includes, but is not limited to, System Agency's office space, identification badges, System Agency information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads or tablets, external hard drives, data storage devices, any System Agency-issued software, and the System Agency Virtual Private Network (VPN client)), and any other resources of System Agency.
- C. Grantee shall not remove State Property from the continental United States. In addition, Grantee may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
- D. Grantee shall not perform any maintenance services on State Property unless the Grant Agreement expressly authorizes such Services.
- E. During the time that State Property is in the possession of Grantee, Grantee shall be responsible for:
 - i. all repair and replacement charges incurred by State Agency that are associated with loss of State Property or damage beyond normal wear and tear, and
 - ii. all charges attributable to Grantee's use of State Property that exceeds the Grant Agreement scope. Grantee shall fully reimburse such charges to System Agency within ten (10) calendar days of Grantee's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Grant Agreement shall constitute breach of contract and may result in termination of the Grant Agreement and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

7.2 DAMAGE TO STATE PROPERTY

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

7.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT

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

7.4 EQUIPMENT AND PROPERTY

- A. The Grantee must ensure equipment with a per-unit cost of \$5,000 or greater purchased with grant funds under this award is used solely for the purpose of this Grant or is properly pro-rated for use under this Grant. Grantee must have control systems to prevent loss, damage, or theft of property funded under this Grant. Grantee shall maintain equipment management and inventory procedures for equipment, whether acquired in part or whole with grant funds, until disposition occurs.
- B. When equipment acquired by Grantee under this Grant Agreement is no longer needed for the original project or for other activities currently supported by System Agency, the Grantee must properly dispose of the equipment pursuant to 2 CFR and/or TxGMS, as applicable. Upon termination of this Grant Agreement, use and disposal of equipment by the Grantee shall conform with TxGMS requirements.
- C. Grantee shall initiate the purchase of all equipment approved in writing by the System Agency in accordance with the schedule approved by System Agency, as applicable. Failure to timely initiate the purchase of equipment may result in the loss of availability of funds for the purchase of equipment. Requests to purchase previously approved equipment after the first quarter in the Grant Agreement must be submitted to the assigned System Agency contract manager.
- D. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets are considered supplies.
- E. System Agency funds must not be used to purchase buildings or real property without prior written approval from System Agency. Any costs related to the initial acquisition of the buildings or real property are not allowable without written pre-approval.

ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY

8.1 RECORD MAINTENANCE AND RETENTION

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

8.2 AGENCY'S RIGHT TO AUDIT

- A. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Grantee pertaining to the Grant Agreement for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas. Grantee shall ensure these same requirements are included in all subcontracts.
- B. In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors shall permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Grant Agreement. Grantee shall permit the System Agency or any of its duly authorized federal, state, or local authorities unrestricted access to and the right to examine all external contracts and or pricing models or methodologies related to the Grant Agreement. Grantee shall ensure these same requirements are included in all subcontracts. If the Grant Agreement includes federal funds, federal agencies that shall have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that shall have a right of access to records as described in this section include: the System Agency, HHS's contracted examiners, the State Auditor's Office, the Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority.
- C. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of oversight, including, but not limited to, reviews, inspections, audits and investigations, Grantee shall produce original documents related to this Grant Agreement.
- D. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings and payments related to the Grant Agreement, including those related to a Subcontractor.
- E. Grantee shall include the System Agency's and any of its duly authorized representatives', as well as duly authorized federal, state, or local authorities, unrestricted right of access to, and examination of, sites and information related to this Grant Agreement in any Subcontract it awards.

8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

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

- C. Grantee shall include the requirement to provide to System Agency (and any of its duly authorized federal, state, or local authorities) internal audit reports related to this Grant Agreement in any Subcontract it awards. Upon request by System Agency, Grantee shall enforce this requirement against its Subcontractor. Further, Grantee shall include in any Subcontract it awards a requirement that all Subcontractor Subcontracts must also include these provisions.

8.4 STATE AUDITOR'S RIGHT TO AUDIT

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement. The acceptance of funds directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Grantee shall ensure the authority to audit funds received indirectly by subcontractors through the contract and the requirement to cooperate is included in any subcontract it awards.

8.5 CONFIDENTIALITY

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

ARTICLE IX. GRANT REMEDIES, TERMINATION AND PROHIBITED ACTIVITIES

9.1 REMEDIES

- A. To ensure Grantee's full performance of the Grant Agreement and compliance with applicable law, System Agency reserves the right to hold Grantee accountable for breach of contract or substandard performance and may take remedial or corrective actions, including, but not limited to the following:
- i. temporarily withholding cash disbursements or reimbursements pending correction of the deficiency;
 - ii. disallowing or denying use of funds for the activity or action deemed not to be in compliance;
 - iii. disallowing claims for reimbursement that may require a partial or whole return of previous payments or reimbursements;
 - iv. suspending all or part of the Grant Agreement;
 - v. requiring the Grantee to take specific actions in order to remain in compliance with the Grant Agreement;
 - vi. recouping payments made by the System Agency to the Grantee found to be in error;
 - vii. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
 - viii. prohibiting the Grantee from receiving additional funds for other grant programs administered by the System Agency until satisfactory compliance resolution is

- obtained;
- ix. withholding release of new grant agreements; and
- x. imposing any other remedies, sanctions or penalties authorized under this Grant Agreement or permitted by federal or state statute, law, regulation or rule.
- B. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended.
- C. No action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as a waiver of any other rights or remedies available to System Agency under the Grant Agreement or pursuant to law. Additionally, no action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as an acceptance, waiver, or cure of Grantee's breach. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended or after termination.

9.2 TERMINATION FOR CONVENIENCE

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

9.3 TERMINATION FOR CAUSE

- A. Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Grant Agreement, in whole or in part, upon either of the following conditions:
 - i. **Material Breach**
The System Agency may terminate the Grant Agreement, in whole or in part, if the System Agency determines, in its sole discretion, that Grantee has materially breached the Grant Agreement or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, whether or not such violation prevents or substantially impairs performance of Grantee's duties under the Grant Agreement. Grantee's misrepresentation in any aspect including, but not limited to, of Grantee's Solicitation Application, if any, or Grantee's addition to the SAM exclusion list (identification in SAM as an excluded entity) may also constitute a material breach of the Grant Agreement.
 - ii. **Failure to Maintain Financial Viability**
The System Agency may terminate the Grant Agreement if the System Agency, in its sole discretion, determines that Grantee no longer maintains the financial viability required to complete the services and deliverables, or otherwise fully perform its responsibilities under the Grant Agreement.
- B. System Agency will specify the effective date of such termination in the notice to Grantee. If no effective date is specified, the Grant Agreement will terminate on the date of the notification.

9.4 GRANTEE RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS

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

9.5 INHERENTLY RELIGIOUS ACTIVITIES

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

9.6 POLITICAL ACTIVITIES

Grant funds cannot be used for the following activities:

- A. Grantees and their relevant sub-grantees or subcontractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying, advocating for legislation, campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties, and voter registration campaigns. Grantees may use private, or non-System Agency money or contributions for political purposes but may not charge to, or be reimbursed from, System Agency contracts or grants for the costs of such activities.
- B. Grant-funded employees may not use official authority or influence to achieve any political purpose and grant funds cannot be used for the salary, benefits, or any other compensation of an elected official.
- C. Grant funds may not be used to employ, in any capacity, a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist. Additionally, grant funds cannot be used to pay membership dues to an organization that partially or wholly pays the salary of a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist.
- D. As applicable, Grantee will comply with 31 USC § 1352, relating to the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.

ARTICLE X. INDEMNITY

10.1 GENERAL INDEMNITY

- A. **GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE GRANT AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE GRANT AGREEMENT.**
- B. **THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.**
- C. **FOR THE AVOIDANCE OF DOUBT, SYSTEM AGENCY SHALL NOT INDEMNIFY GRANTEE OR ANY OTHER ENTITY UNDER THE GRANT**

AGREEMENT.

10.2 INTELLECTUAL PROPERTY

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

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

10.3 ADDITIONAL INDEMNITY PROVISIONS

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

ARTICLE XI. GENERAL PROVISIONS

11.1 AMENDMENTS

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

11.2 NO QUANTITY GUARANTEES

The System Agency makes no guarantee of volume or usage of work under this Grant

Agreement. All work requested may be on an irregular and as needed basis throughout the Grant Agreement term.

11.3 CHILD ABUSE REPORTING REQUIREMENTS

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

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

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

11.5 INSURANCE AND BONDS

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

These and all other insurance requirements under the Grant apply to both Grantee and its

Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

11.6 LIMITATION ON AUTHORITY

- A. Grantee shall not have any authority to act for or on behalf of the System Agency or the State of Texas except as expressly provided for in the Grant Agreement; no other authority, power, or use is granted or implied. Grantee may not incur any debt, obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.
- B. Grantee may not rely upon implied authority and is not granted authority under the Grant Agreement to:
 - i. Make public policy on behalf of the System Agency;
 - ii. Promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of a System Agency program; or
 - iii. Unilaterally communicate or negotiate with any federal or state agency or the Texas Legislature on behalf of the System Agency regarding System Agency programs or the Grant Agreement. However, upon System Agency request and with reasonable notice from System Agency to the Grantee, the Grantee shall assist the System Agency in communications and negotiations regarding the Work under the Grant Agreement with state and federal governments.

11.7 CHANGE IN LAWS AND COMPLIANCE WITH LAWS

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

11.8 SUBCONTRACTORS

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

11.9 PERMITTING AND LICENSURE

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

11.10 INDEPENDENT CONTRACTOR

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

11.11 GOVERNING LAW AND VENUE

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

11.12 SEVERABILITY

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

11.13 SURVIVABILITY

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

11.14 FORCE MAJEURE

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

11.15 NO IMPLIED WAIVER OF PROVISIONS

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

11.16 FUNDING DISCLAIMERS AND LABELING

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

11.17 MEDIA RELEASES

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

11.18 PROHIBITION ON NON-COMPETE RESTRICTIONS

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

11.19 SOVEREIGN IMMUNITY

Nothing in the Grant Agreement will be construed as a waiver of the System Agency's or the State's sovereign immunity. This Grant Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas under the Grant Agreement or under applicable law shall not constitute

a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. System Agency does not waive any privileges, rights, defenses, or immunities available to System Agency by entering into the Grant Agreement or by its conduct prior to or subsequent to entering into the Grant Agreement.

11.20 ENTIRE CONTRACT AND MODIFICATION

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

11.21 COUNTERPARTS

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

11.22 PROPER AUTHORITY

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

11.23 E-VERIFY PROGRAM

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

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

11.24 CIVIL RIGHTS

- A. Grantee agrees to comply with state and federal anti-discrimination laws, including:
 - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.);
 - ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
 - iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.);
 - iv. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
 - v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
 - vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011 et seq.); and
 - vii. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Grant Agreement.
- B. Grantee agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.
- C. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require

contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

- D. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <https://hhs.texas.gov/about-hhs/your-rights/civil-rights-office/civil-rights-posters>
- E. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.
- G. Grantee must notify HHSC's Civil Rights Office of any complaints of discrimination received relating to its performance under this Grant Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

HHSC Civil Rights Office
701 W. 51st Street, Mail Code W206
Austin, Texas 78751
Phone Toll Free: (888) 388-6332
Phone: (512) 438-4313
Fax: (512) 438-5885
Email: HHSCivilRightsOffice@hhsc.state.tx.us

11.25 ENTERPRISE INFORMATION MANAGEMENT STANDARDS

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

11.26 DISCLOSURE OF LITIGATION

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

Grantee's financial condition.

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

11.27 NO THIRD PARTY BENEFICIARIES

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

11.28 BINDING EFFECT

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

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Fiscal Federal Funding Accountability and Transparency Act (FFATA)

The certifications enumerated below represent material facts upon which DSHS relies when reporting information to the federal government required under federal law. If the Department later determines that the Contractor knowingly rendered an erroneous certification, DSHS may pursue all available remedies in accordance with Texas and U.S. law. Signor further agrees that it will provide immediate written notice to DSHS if at any time Signor learns that any of the certifications provided for below were erroneous when submitted or have since become erroneous by reason of changed circumstances. ***If the Signor cannot certify all of the statements contained in this section, Signor must provide written notice to DSHS detailing which of the below statements it cannot certify and why.***

Legal Name of Contractor: Ector County Health Department	FFATA Contact: (Name, Email and Phone Number): Brandy Garcia brandy.garcia@ectorcountytexas.gov
Primary Address of Contractor: 221 N Texas Ave	Zip Code: 9-digits required www.usps.com 79761
Unique Entity ID (UEI): This number replaces the DUNS www.sam.gov N/A	State of Texas Comptroller Vendor Identification Number (VIN) – 14 digits: 75-6000934

Printed Name of Authorized Representative:	Signature of Authorized Representative
Title of Authorized Representative	Date Signed

Fiscal Federal Funding Accountability and Transparency Act (FFATA) CERTIFICATION

As the duly authorized representative (Signor) of the Contractor, I hereby certify that the statements made by me in this certification form are true, complete, and correct to the best of my knowledge.

Did your organization have a gross income, from all sources, of less than \$300,000 in your previous tax year? Yes ☒ No ☐

If your answer is "Yes", skip questions "A", "B", and "C" and finish the certification. If your answer is "No", answer questions "A" and "B".

A. Certification Regarding % of Annual Gross from Federal Awards.

Did your organization receive 80% or more of its annual gross revenue from federal awards during the preceding fiscal year? Yes ☐ No ☐

B. Certification Regarding Amount of Annual Gross from Federal Awards.

Did your organization receive \$25 million or more in annual gross revenues from federal awards in the preceding fiscal year? Yes ☐ No ☐

If your answer is "Yes" to both question "A" and "B", you must answer question "C".
If your answer is "No" to either question "A" or "B", skip question "C" and finish the certification.

C. Certification Regarding Public Access to Compensation Information.

Does the public have access to information about the compensation of the senior executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986? Yes ☐ No ☐

If your answer is "Yes" to this question, where can this information be accessed?

County website

If your answer is "No" to this question, you must provide the names and total compensation of the top five highly compensated officers below.

Provide compensation information here:

N/A

Certificate Of Completion

Envelope Id: C52A73F464A84BE484FF5B3224329BEE
Subject: Please DocuSign: HHS001331300040 Ector FY25 IMM Locals A1
Source Envelope:
Document Pages: 53
Certificate Pages: 3
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:
CMS Internal Routing Mailbox
11493 Sunset Hills Road
#100
Reston, VA 20190
CMS.InternalRouting@dshs.texas.gov
IP Address: 167.137.1.16

Record Tracking

Status: Original
5/9/2024 3:40:33 PM

Holder: CMS Internal Routing Mailbox
CMS.InternalRouting@dshs.texas.gov

Location: DocuSign

Signer Events

Erundina Garcia
erundina.garcia@ectorcountytexas.gov
Security Level: Email, Account Authentication
(None)

Signature**Completed**

Using IP Address: 12.226.236.2

Timestamp

Sent: 5/9/2024 3:46:08 PM
Resent: 6/17/2024 7:39:04 AM
Viewed: 6/17/2024 8:48:55 AM
Signed: 6/17/2024 9:11:20 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Erundina Garcia
erundina.garcia@ectorcountytexas.gov
Security Level: Email, Account Authentication
(None)

Completed

Using IP Address: 67.198.54.226

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Viewed: 7/11/2024 3:35:28 PM
Signed: 7/11/2024 3:35:54 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Dustin Fawcett
Dustin.fawcett@ectorcountytexas.gov
County Judge
Security Level: Email, Account Authentication
(None)

Sent: 6/17/2024 9:11:22 AM
Resent: 7/9/2024 9:45:01 AM
Resent: 7/11/2024 3:35:58 PM
Viewed: 7/12/2024 7:39:07 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Susana Garcia
susana.garcia@dshs.texas.gov
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Patty Melchior
patty.melchior@dshs.texas.gov
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Josh Hutchison
josh.hutchison@dshs.texas.gov
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

[illegible]

Envelope Summary Events	Status	Timestamps
Envelope Updated	Security Checked	7/11/2024 1:05:28 PM
Payment Events	Status	Timestamps

**DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS001311600001
AMENDMENT NO. 1**

The Department of State Health Services and Ector County Health Department (Grantee), each a “Party” and collectively the “Parties” to that certain Center for Health Emergency Preparedness and Response Grant Agreement effective May 31, 2023 and denominated DSHS Contract No. HHS001311600001 (Contract), now want to amend the Contract.

Whereas, the Parties want to revise the Statement of Work to change the date on which Grantee’s final performance report and Financial Status Report are due; and

Whereas, the Parties want to incorporate updated Contract Affirmations and Uniform Terms and Conditions.

The Parties therefore amend the Contract as follows:

1. **Attachment A, Statement of Work**, is deleted in its entirety and replaced with **Attachment A.1, Revised Statement of Work**.
2. **Attachment C, Contract Affirmations (v.2.2)** is deleted in its entirety and replaced with **Attachment C.1, Contract Affirmations (v.2.3)**.
3. **Attachment D, Uniform Terms and Conditions–Grant (v.3.2)** is deleted in its entirety and replaced with **Attachment D.1, Uniform Terms and Conditions–Grant (v.3.3)**.
4. This Amendment shall be effective as of the date last signed below.
5. Except as modified by this Amendment, all terms and conditions of the Contract shall remain in effect.
6. Any further revisions to the Contract shall be by written agreement of the Parties.

SIGNATURE PAGE FOLLOWS

**SIGNATURE PAGE FOR AMENDMENT NO. 1
DSHS CONTRACT NO. HHS01311600001**

DEPARTMENT OF STATE HEALTH SERVICES ECTOR COUNTY HEALTH DEPARTMENT

Signature: _____

Signature: _____

Name: _____

Name: BRANDY GARCIA _____

Title: _____

Title: 06/19/2023 _____

Date of Signature: _____

Date of Signature: _____

The following documents are attached and incorporated as part of the Contract:

ATTACHMENT A.1—REVISED STATEMENT OF WORK

ATTACHMENT C.1—CONTRACT AFFIRMATIONS (v.2.3)

ATTACHMENT D.1—UNIFORM TERMS AND CONDITIONS—GRANT (v.3.3)

ATTACHMENT A.1
REVISED STATEMENT OF WORK
Strengthening U.S. Public Health Infrastructure, Workforce, and
Data Systems

I. GRANTEE RESPONSIBILITIES

Grantee shall:

- A. Make strategic investments to support hiring, retaining, and training the public health workforce and strengthen public health infrastructure and systems related to the workforce and foundational capabilities in alignment with the Strengthening U.S. Public Health Infrastructure, Workforce, and Data Systems (Funding Opportunity Number CDC RFA OE22-2203) program from the Centers for Disease Control and Prevention (CDC).
- B. Complete all activities required and allowable under this Contract by November 30, 2027 and complete all reports by the due dates listed in Article III.
- C. Perform required activities intended to help meet critical infrastructure needs and make possible strategic investments that will have lasting effects on public health agencies. Recipients should prioritize recruiting and hiring staff who are from the communities and populations served. Required activities include:
 - 1. Recruit and hire new public health personnel (professional, clinical, disease investigation, program and/or administrative); expand recruitment efforts; create new positions; improve hiring incentives; and create new hiring mechanisms. Personnel may be permanent full or part-time staff, temporary or term-limited staff, fellows, interns and/or contracted employees.
 - 2. Retain public health staff, strengthen retention incentives, and create promotional opportunities (e.g., career ladders, succession planning).
 - 3. Support and sustain the public health workforce and strengthen workplace well-being programs and expand engagement with the workforce to address their mental, emotional, and physical well-being.
 - 4. Train new and existing public health infrastructure grant staff and improve the quality and scope of training and professional development opportunities for staff.
 - 5. Strengthen workforce planning, systems, processes, and policies; maintain and upgrade human resource systems; identify ways to better collect and use workforce data; and identify policies that could facilitate more efficient and effective workplace development and management.
 - 6. Strengthen support for implementation of this grant.
- D. Agree that funds cannot be used for research, medical or clinical supplies, fund-raising activities, construction or major renovations, to supplant existing state or federal funds for activities, to purchase vehicles of any kind (including mobile medical clinics), or to fund an award to another party or provider who is ineligible. Any furniture/cubicle or uniform/scrub purchases will require PRIOR approval by System Agency. Funds cannot be used for the preparation, distribution, or use of any material (publicity or propaganda) intended to influence the enactment or modification of any federal or state legislation or to pay the salary or expenses of grant recipients, contract recipients, or agents that aim to support or defeat the enactment of legislation, regulation, administrative action, or any executive order proposed or pending before a legislative body beyond normal, recognized executive relationships.

ATTACHMENT A.1
REVISED STATEMENT OF WORK
Strengthening U.S. Public Health Infrastructure, Workforce, and
Data Systems

- E. Comply with all applicable regulations, standards, and guidelines in effect on the beginning date of this Contract and as may be amended throughout the Grant Agreement term.
- F. Maintain an inventory of equipment, supplies defined as controlled assets, and real property that were purchased with grant funds. Grantee shall submit an annual cumulative report of the equipment, controlled assets and other property on HHS System Agency Grantee's Property Inventory Report form to the assigned System Agency Contract Manager by email not later than October 15 of each year. Controlled assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled assets are considered supplies. Equipment includes tangible nonexpendable personal property with an acquisition cost of \$5,000 or more and a useful life of more than one year.
- G. For budget transfers, submit a revised Categorical Budget Form to the System Agency Contract Manager, highlighting the areas affected.

Transferring funds between budget categories, other than the equipment and indirect cost categories, is allowable, but requires prior approval by System Agency and cannot exceed 25% of the total annual Contract value for each period ending on November 30. If the budget transfer(s) exceeds 25% of the total annual Contract value for a Contract period ending on November 30, alone or cumulatively, a Contract amendment is required.

After review, the System Agency Contract Manager shall provide notification of acceptance or disallowance to Grantee via email. If approved, the revised budget shall be deemed incorporated into the Contract.

II. PERFORMANCE MEASURES

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

System Agency will develop performance measures in collaboration with the Grantee.

III. REPORTING REQUIREMENTS

- A. Grantee shall be required to submit the reports detailed below, together with any additional reports requested by System Agency as necessary to accomplish the objectives of and monitor compliance with this Contract. Grantee must submit reports in a format specified by the System Agency.
- B. Grantee will provide and submit written reports, by electronic mail, in the format specified by System Agency. Grantee shall maintain the source documentation used to develop the reports. All written reports should be titled with the Grantee name, address, email address, telephone number, program name, contract or purchase order number, dates services were

ATTACHMENT A.1
REVISED STATEMENT OF WORK
Strengthening U.S. Public Health Infrastructure, Workforce, and
Data Systems

completed and/or products were delivered, the time period of the report, total invoice amount, and invoices paid to subgrantees for services received. Submit local health entity Strengthening U.S. Public Health Infrastructure, Workforce, and Data Systems progress reports and spend plans within the established timeframe designated by the System Agency, using the template provided by System Agency. Progress reports must include status updates on program activities and reporting progress through financial reports. Failure to submit a required report or additional requested information by the due dates provided by System Agency or upon request constitutes breach of contract and may result in delay of payment or cancellation of the Grant Agreement. Reports should be sent electronically to DSHSPHInfrastructureCo-Ag@dshs.texas.com and the assigned Contract Manager.

Report	Frequency	Due Date
Program and Financial Progress Reports	Twice per calendar year	June 10 and December 10
Final Performance Report	End of Contract	December 30, 2027
Invoices/Requests for Reimbursement	Once per month	The last business day of the month following the month in which expenses were incurred
Grantee's Property Inventory Report	Once per year	October 15 annually through 2027

- C. Submit the final performance report listed above that describes progress toward achieving the objectives and deliverables contained in this Contract to DSHSPHInfrastructureCo-Ag@dshs.texas.com and the assigned Contract Manager by December 30, 2027 (30 days after end of Contract period), using the template provided by System Agency.

IV. INVOICE AND PAYMENT

- A. Grantee shall submit requests for reimbursement of required services/deliverables monthly using the State of Texas Purchase Voucher (Form B-13), together with supporting documentation as directed by System Agency. Forms should be mailed, faxed or e-mailed to the addresses below. Invoices will be due the last business day of the month following the month in which expenses were incurred. Grantee must submit a final close-out invoice. Invoices received more than thirty (30) days after each fiscal year are subject to denial of payment.
- B. Grantee shall submit a Financial Status Report (FSR) twice per calendar year for the term of the Contract, beginning on the effective date of the Contract through November 30, 2027.

ATTACHMENT A.1
REVISED STATEMENT OF WORK
Strengthening U.S. Public Health Infrastructure, Workforce, and
Data Systems

Contract Year	FSR Period 1	FSR 1 Due Dates	FSR Period 2	FSR 2 Due Dates
1	Effective Date - May 31, 2023	June 30, 2023	June 1, 2023 - November 30, 2023	December 30, 2023
2	December 1, 2023 - May 31, 2024	June 30, 2024	June 1, 2024 - November 30, 2024	December 30, 2024
3	December 1, 2024 - May 31, 2025	June 30, 2025	June 1, 2025 - November 30, 2025	December 30, 2025
4	December 1, 2025 - May 31, 2026	June 30, 2026	June 1, 2026 - November 30, 2026	December 30, 2026
5	December 1, 2026 - May 31, 2027	June 30, 2027	June 1, 2027 - November 30, 2027	December 30, 2027

All reporting documents must be submitted by e-mail, fax, or mail. E-mail is preferred, but fax or mail is acceptable.

1. For submission by mail, use address below:

Department of State Health Services
Claims Processing Unit, MC 1940
P.O. Box 149347
Austin, TX 78714-9347

2. For submission by fax, use number below:

(512) 458-7442

3. For submission by e-mail, see requirements below:

- a. Form B-13 with supporting documentation must be sent to invoices@dshs.texas.gov & CMSInvoices@dshs.texas.gov, with a copy to the System Agency contract manager.
- b. FSR must be sent to: invoices@dshs.texas.gov; FSRGrants@dshs.texas.gov; and with a copy to the System Agency contract manager.

- C. Grantee will be reimbursed monthly in accordance with Attachment B, Budget, subject to all Contract requirements, applicable law and governing regulations. Grantee shall include required and appropriate documentation with all reimbursement requests.

HEALTH AND HUMAN SERVICES
Contract Number HHS001311600001
Attachment C1 CONTRACT AFFIRMATIONS

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

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

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

2. Complete and Accurate Information

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

3. Public Information Act

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

4. Contracting Information Requirements

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

5. Assignment

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

6. Terms and Conditions

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

7. HHS Right to Use

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

8. Release from Liability

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

9. Dealings with Public Servants

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

10. Financial Participation Prohibited

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

11. Prior Disaster Relief Contract Violation

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

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

12. Child Support Obligation

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

13. Suspension and Debarment

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

14. Excluded Parties

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

15. Foreign Terrorist Organizations

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

16. Executive Head of a State Agency

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

17. Human Trafficking Prohibition

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

18. Franchise Tax Status

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

19. Debts and Delinquencies

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

20. Lobbying Prohibition

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

21. Buy Texas

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

22. Disaster Recovery Plan

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

23. Computer Equipment Recycling Program

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

24. Television Equipment Recycling Program

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

25. Cybersecurity Training

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

26. Restricted Employment for Certain State Personnel

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

27. No Conflicts of Interest

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

28. Fraud, Waste, and Abuse

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

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

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

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

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

29. Antitrust

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

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

30. Legal and Regulatory Actions

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

31. No Felony Criminal Convictions

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

32. Unfair Business Practices

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

33. Entities that Boycott Israel

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

34. E-Verify

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

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

35. Former Agency Employees – Certain Contracts

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

36. Disclosure of Prior State Employment – Consulting Services

If this Contract is for consulting services,

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

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

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

37. Abortion Funding Limitation

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

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

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

38. Funding Eligibility

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

39. Gender Transitioning and Gender Reassignment Procedures and Treatments for Certain Children – Prohibited Use of Public Money; Prohibited State Health Plan Reimbursement.

Contractor understands, acknowledges, and agrees that, pursuant to Section 161.704 of the Texas Health and Safety Code (eff. Sept. 1, 2023), public money may not directly or indirectly be used, granted, paid, or distributed to any health care provider, medical school, hospital, physician, or any other entity, organization, or individual that provides or facilitates the provision of a procedure or treatment to a child that is prohibited under Section 161.702 of the Texas Health and Safety Code. Contractor also understands, acknowledges, and agrees that, pursuant to Section 161.705 of the Texas Health and Safety Code (eff. Sept. 1, 2023), HHSC may not provide Medicaid reimbursement and the child health plan program established under Chapter 62 may not provide reimbursement to a physician or health care provider for provision of a procedure or treatment to a child that is prohibited under Section 161.702 of the Texas Health and Safety Code. Contractor certifies that it is not ineligible to contract with System Agency under the terms of Chapter 161, Subchapter X, of the Texas Health and Safety Code.

40. 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.

41. 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.

42. COVID-19 Vaccinations

Contractor understands, acknowledges, and agrees that, pursuant to Article II of the General Appropriations Act, none of the General Revenue Funds appropriated to the Department of State Health Services (DSHS) may be used for the purpose of promoting or advertising COVID-19 vaccinations in the 2024-25 biennium. It is also the intent of the legislature that to the extent allowed by federal law, any federal funds allocated to DSHS shall be expended for activities other than promoting or advertising COVID-19 vaccinations. 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.

43. Entities that Boycott Energy Companies

In accordance with Senate Bill 13, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 (eff. Sept. 1, 2023, Section 2276.002, pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.) 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 (eff. Sept. 1, 2023, Section 2276.002, pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.) 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.

44. 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.

45. 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.

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

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

47. 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) (eff. Apr. 1, 2025, Section 544.0106, pursuant to House Bill 4611, Acts 2023, 88th Leg., R.S.) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

48. 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.

49. Foreign-Owned Companies in Connection with Critical Infrastructure

If Texas Government Code, Section 2274.0102(a)(1) (eff. Sept. 1, 2023, Section 2275.0102(a)(1), pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.) (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 (eff. Sept. 1, 2023, Section 2275.0102, pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.), 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 (eff. Sept. 1, 2023, Section 2275.0103, pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.), or (2) headquartered in any of those countries.

50. 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.

51. 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.

52. 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.

53. 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.

54. 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.

55. 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.

56. Equal Employment Opportunity

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

57. 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).

58. Signature Authority

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

Signature Page Follows

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

Legal Name of Contractor

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

Texas County(s) for Assumed Business Name (d/b/a or 'doing business as')
Attach Assumed Name Certificate(s) filed with the Texas Secretary of State and Assumed Name Certificate(s), if any, for each Texas County Where Assumed Name Certificate(s) has been filed.

Signature of Authorized Representative

BRANDY GARCIA

Date Signed

06/19/2023

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

Title of Authorized Representative

Physical Street Address

City, State, Zip Code

Mailing Address, if different

City, State, Zip Code

Phone Number

Fax Number

Email Address

DUNS Number

Federal Employer Identification Number

Texas Identification Number (TIN)

Texas Franchise Tax Number

Texas Secretary of State Filing Number

SAM.gov Unique Entity Identifier (UEI)



TEXAS

Health and Human Services

Health and Human Services (HHS)

Uniform Terms and Conditions - Grant

Version 3.3

Published and Effective – November 2023

Responsible Office: Chief Counsel

ABOUT THIS DOCUMENT

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

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

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ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.1 DEFINITIONS

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

“Amendment” means a written agreement, signed by the Parties, which documents changes to the Grant Agreement.

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

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

“DSHS” means the Department of State Health Services.

“Effective Date” means the date on which the Grant Agreement takes effect.

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

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

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

“HHSC” means the Texas Health and Human Services Commission.

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

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

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

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

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

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

“Signature Document” means the document executed by all Parties for this Grant Agreement.

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

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

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

“State of Texas Textravel” means the Texas Comptroller of Public Accounts’ website relative to travel reimbursements under this Contract, if any.

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

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

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

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

1.2 INTERPRETIVE PROVISIONS

- A. The meanings of defined terms include the singular and plural forms.
- B. The words “hereof,” “herein,” “hereunder,” and similar words refer to this Grant Agreement as a whole and not to any particular provision, section, attachment, or schedule of this Grant Agreement unless otherwise specified.
- C. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Grant Agreement, (i) references to contracts (including this Grant Agreement) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Grant Agreement, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.

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

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

ARTICLE II. PAYMENT PROVISIONS

2.1 PROMPT PAYMENT

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

2.2 TAXES

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

2.3 ANCILLARY AND TRAVEL EXPENSES

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

2.4 BILLING

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

2.5 USE OF FUNDS

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

2.6 USE FOR MATCH PROHIBITED

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

2.7 PROGRAM INCOME

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

2.8 NONSUPPLANTING

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

2.9 INDIRECT COST RATES

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

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 EXCESS OBLIGATIONS PROHIBITED

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

3.2 NO DEBT AGAINST THE STATE

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

3.3 DEBTS AND DELINQUENCIES

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

3.4 REFUNDS AND OVERPAYMENTS

- A. At its sole discretion, the System Agency may (i) withhold all or part of any payments to Grantee to offset overpayments, unallowable or ineligible costs made to the Grantee, or if any required financial status report(s) is not submitted by the due date(s); or (ii) require Grantee to promptly refund or credit - within thirty (30) calendar days of written notice – to System Agency any funds erroneously paid by System Agency which are not expressly authorized under the Grant Agreement.
- B. "Overpayments" as used in this Section include payments (i) made by the System Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Grant Agreement, including any unapproved expenditures. Grantee understands and agrees that it shall be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Grant Agreement. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Grant Agreement.

ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS

4.1 ALLOWABLE COSTS

- A. Allowable Costs are restricted to costs that are authorized under Texas Uniform Grant Management Standards (TxGMS) and applicable state and federal rules and laws. This Grant Agreement is subject to all applicable requirements of TxGMS, including the

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

4.2 AUDITS AND FINANCIAL STATEMENTS

- A. Audits
 - i. Grantee understands and agrees that Grantee is subject to any and all applicable audit requirements found in state or federal law or regulation or added by this Grant Agreement
 - ii. HHS Single Audit Unit will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the form within thirty (30) calendar days after receipt of notice, Grantee maybe subject to sanctions and remedies for non-compliance.
 - iii. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The federal threshold amount includes federal funds passed through by way of state agency awards.
 - iv. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in state funds awarded, Grantee shall have a single audit or program-specific audit in accordance with TxGMS. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and TxGMS.
 - v. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or TxGMS, as applicable, for their program-specific audits.
 - vi. Each Grantee required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with applicable provisions of 2 CFR 200 and TxGMS.
- B. Financial Statements.

Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements for the audit period.

4.3 SUBMISSION OF AUDITS AND FINANCIAL STATEMENTS

- A. Audits.

Due the earlier of 30 days after receipt of the independent certified public accountant's

report or nine months after the end of the fiscal year, Grantee shall submit one electronic copy of the single audit or program-specific audit to the System Agency via:

- i. HHS portal at <https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau> or,
- ii. Email to: single_audit_report@hhsc.state.tx.us.

B. Financial Statements.

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

- i. HHS portal at <https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau>; or,
- ii. Email to: single_audit_report@hhsc.state.tx.us.

ARTICLE V. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

5.1 WARRANTY

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

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

5.2 GENERAL AFFIRMATIONS

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

5.3 FEDERAL ASSURANCES

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

5.4 FEDERAL CERTIFICATIONS

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

5.5 STATE ASSURANCES

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

ARTICLE VI. INTELLECTUAL PROPERTY

6.1 OWNERSHIP OF WORK PRODUCT

- A. All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency.
- B. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Grantee hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing.
- C. Grantee agrees to execute all papers and to perform such other acts as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned.
- D. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.
- E. The foregoing does not apply to Incorporated Pre-existing Works or Third Party IP that are incorporated in the Work Product by Grantee. Grantee shall provide System Agency access during normal business hours to all Grantee materials, premises, and computer files containing the Work Product.

6.2 GRANTEE'S PRE-EXISTING WORKS

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

6.3 THIRD PARTY IP

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

6.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS

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

6.5 DELIVERY UPON TERMINATION OR EXPIRATION

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

6.6 SURVIVAL

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

6.7 SYSTEM AGENCY DATA

- A. As between the Parties, all data and information acquired, accessed, or made available to Grantee by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Grantee in the course of providing data processing services in connection with Grantee's performance hereunder (the "System Agency Data"), is owned solely by System Agency.
- B. Grantee has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Grantee to fulfill its obligations under the Grant Agreement or as authorized in advance in writing by System Agency.
- C. For the avoidance of doubt, Grantee is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.
- D. Grantee shall make System Agency Data available to System Agency, including to

System Agency's designated vendors, as directed in writing by System Agency. The foregoing shall be at no cost to System Agency.

- E. Furthermore, the proprietary nature of Grantee's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Grantee's performance of its obligations hereunder.

ARTICLE VII. PROPERTY

7.1 USE OF STATE PROPERTY

- A. Grantee is prohibited from using State Property for any purpose other than performing Services authorized under the Grant Agreement.
- B. State Property includes, but is not limited to, System Agency's office space, identification badges, System Agency information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads or tablets, external hard drives, data storage devices, any System Agency-issued software, and the System Agency Virtual Private Network (VPN client)), and any other resources of System Agency.
- C. Grantee shall not remove State Property from the continental United States. In addition, Grantee may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
- D. Grantee shall not perform any maintenance services on State Property unless the Grant Agreement expressly authorizes such Services.
- E. During the time that State Property is in the possession of Grantee, Grantee shall be responsible for:
 - i. all repair and replacement charges incurred by State Agency that are associated with loss of State Property or damage beyond normal wear and tear, and
 - ii. all charges attributable to Grantee's use of State Property that exceeds the Grant Agreement scope. Grantee shall fully reimburse such charges to System Agency within ten (10) calendar days of Grantee's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Grant Agreement shall constitute breach of contract and may result in termination of the Grant Agreement and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

7.2 DAMAGE TO STATE PROPERTY

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

7.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT

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

7.4 EQUIPMENT AND PROPERTY

- A. The Grantee must ensure equipment with a per-unit cost of \$5,000 or greater purchased with grant funds under this award is used solely for the purpose of this Grant or is properly pro-rated for use under this Grant. Grantee must have control systems to prevent loss, damage, or theft of property funded under this Grant. Grantee shall maintain equipment management and inventory procedures for equipment, whether acquired in part or whole with grant funds, until disposition occurs.
- B. When equipment acquired by Grantee under this Grant Agreement is no longer needed for the original project or for other activities currently supported by System Agency, the Grantee must properly dispose of the equipment pursuant to 2 CFR and/or TxGMS, as applicable. Upon termination of this Grant Agreement, use and disposal of equipment by the Grantee shall conform with TxGMS requirements.
- C. Grantee shall initiate the purchase of all equipment approved in writing by the System Agency in accordance with the schedule approved by System Agency, as applicable. Failure to timely initiate the purchase of equipment may result in the loss of availability of funds for the purchase of equipment. Requests to purchase previously approved equipment after the first quarter in the Grant Agreement must be submitted to the assigned System Agency contract manager.
- D. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets are considered supplies.
- E. System Agency funds must not be used to purchase buildings or real property without prior written approval from System Agency. Any costs related to the initial acquisition of the buildings or real property are not allowable without written pre-approval.

ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY

8.1 RECORD MAINTENANCE AND RETENTION

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

8.2 AGENCY'S RIGHT TO AUDIT

- A. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Grantee pertaining to the Grant Agreement for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas. Grantee shall ensure these same requirements are included in all subcontracts.
- B. In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors shall permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Grant Agreement. Grantee shall permit the System Agency or any of its duly authorized federal, state, or local authorities unrestricted access to and the right to examine all external contracts and or pricing models or methodologies related to the Grant Agreement. Grantee shall ensure these same requirements are included in all subcontracts. If the Grant Agreement includes federal funds, federal agencies that shall have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that shall have a right of access to records as described in this section include: the System Agency, HHS's contracted examiners, the State Auditor's Office, the Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority.
- C. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of oversight, including, but not limited to, reviews, inspections, audits and investigations, Grantee shall produce original documents related to this Grant Agreement.
- D. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings and payments related to the Grant Agreement, including those related to a Subcontractor.
- E. Grantee shall include the System Agency's and any of its duly authorized representatives', as well as duly authorized federal, state, or local authorities, unrestricted right of access to, and examination of, sites and information related to this Grant Agreement in any Subcontract it awards.

8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

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

- C. Grantee shall include the requirement to provide to System Agency (and any of its duly authorized federal, state, or local authorities) internal audit reports related to this Grant Agreement in any Subcontract it awards. Upon request by System Agency, Grantee shall enforce this requirement against its Subcontractor. Further, Grantee shall include in any Subcontract it awards a requirement that all Subcontractor Subcontracts must also include these provisions.

8.4 STATE AUDITOR'S RIGHT TO AUDIT

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement. The acceptance of funds directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Grantee shall ensure the authority to audit funds received indirectly by subcontractors through the contract and the requirement to cooperate is included in any subcontract it awards.

8.5 CONFIDENTIALITY

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

ARTICLE IX. GRANT REMEDIES, TERMINATION AND PROHIBITED ACTIVITIES

9.1 REMEDIES

- A. To ensure Grantee's full performance of the Grant Agreement and compliance with applicable law, System Agency reserves the right to hold Grantee accountable for breach of contract or substandard performance and may take remedial or corrective actions, including, but not limited to the following:
- i. temporarily withholding cash disbursements or reimbursements pending correction of the deficiency;
 - ii. disallowing or denying use of funds for the activity or action deemed not to be in compliance;
 - iii. disallowing claims for reimbursement that may require a partial or whole return of previous payments or reimbursements;
 - iv. suspending all or part of the Grant Agreement;
 - v. requiring the Grantee to take specific actions in order to remain in compliance with the Grant Agreement;
 - vi. recouping payments made by the System Agency to the Grantee found to be in error;
 - vii. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
 - viii. prohibiting the Grantee from receiving additional funds for other grant programs administered by the System Agency until satisfactory compliance resolution is

- obtained;
- ix. withholding release of new grant agreements; and
- x. imposing any other remedies, sanctions or penalties authorized under this Grant Agreement or permitted by federal or state statute, law, regulation or rule.
- B. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended.
- C. No action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as a waiver of any other rights or remedies available to System Agency under the Grant Agreement or pursuant to law. Additionally, no action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as an acceptance, waiver, or cure of Grantee's breach. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended or after termination.

9.2 TERMINATION FOR CONVENIENCE

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

9.3 TERMINATION FOR CAUSE

- A. Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Grant Agreement, in whole or in part, upon either of the following conditions:
 - i. **Material Breach**
The System Agency may terminate the Grant Agreement, in whole or in part, if the System Agency determines, in its sole discretion, that Grantee has materially breached the Grant Agreement or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, whether or not such violation prevents or substantially impairs performance of Grantee's duties under the Grant Agreement. Grantee's misrepresentation in any aspect including, but not limited to, of Grantee's Solicitation Application, if any, or Grantee's addition to the SAM exclusion list (identification in SAM as an excluded entity) may also constitute a material breach of the Grant Agreement.
 - ii. **Failure to Maintain Financial Viability**
The System Agency may terminate the Grant Agreement if the System Agency, in its sole discretion, determines that Grantee no longer maintains the financial viability required to complete the services and deliverables, or otherwise fully perform its responsibilities under the Grant Agreement.
- B. System Agency will specify the effective date of such termination in the notice to Grantee. If no effective date is specified, the Grant Agreement will terminate on the date of the notification.

9.4 GRANTEE RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS

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

9.5 INHERENTLY RELIGIOUS ACTIVITIES

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

9.6 POLITICAL ACTIVITIES

Grant funds cannot be used for the following activities:

- A. Grantees and their relevant sub-grantees or subcontractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying, advocating for legislation, campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties, and voter registration campaigns. Grantees may use private, or non-System Agency money or contributions for political purposes but may not charge to, or be reimbursed from, System Agency contracts or grants for the costs of such activities.
- B. Grant-funded employees may not use official authority or influence to achieve any political purpose and grant funds cannot be used for the salary, benefits, or any other compensation of an elected official.
- C. Grant funds may not be used to employ, in any capacity, a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist. Additionally, grant funds cannot be used to pay membership dues to an organization that partially or wholly pays the salary of a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist.
- D. As applicable, Grantee will comply with 31 USC § 1352, relating to the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.

ARTICLE X. INDEMNITY

10.1 GENERAL INDEMNITY

- A. **GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE GRANT AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE GRANT AGREEMENT.**
- B. **THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.**
- C. **FOR THE AVOIDANCE OF DOUBT, SYSTEM AGENCY SHALL NOT INDEMNIFY GRANTEE OR ANY OTHER ENTITY UNDER THE GRANT**

AGREEMENT.

10.2 INTELLECTUAL PROPERTY

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

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

10.3 ADDITIONAL INDEMNITY PROVISIONS

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

ARTICLE XI. GENERAL PROVISIONS

11.1 AMENDMENTS

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

11.2 NO QUANTITY GUARANTEES

The System Agency makes no guarantee of volume or usage of work under this Grant

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Agreement. All work requested may be on an irregular and as needed basis throughout the Grant Agreement term.

11.3 CHILD ABUSE REPORTING REQUIREMENTS

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

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

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

11.5 INSURANCE AND BONDS

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

These and all other insurance requirements under the Grant apply to both Grantee and its

Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

11.6 LIMITATION ON AUTHORITY

- A. Grantee shall not have any authority to act for or on behalf of the System Agency or the State of Texas except as expressly provided for in the Grant Agreement; no other authority, power, or use is granted or implied. Grantee may not incur any debt, obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.
- B. Grantee may not rely upon implied authority and is not granted authority under the Grant Agreement to:
 - i. Make public policy on behalf of the System Agency;
 - ii. Promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of a System Agency program; or
 - iii. Unilaterally communicate or negotiate with any federal or state agency or the Texas Legislature on behalf of the System Agency regarding System Agency programs or the Grant Agreement. However, upon System Agency request and with reasonable notice from System Agency to the Grantee, the Grantee shall assist the System Agency in communications and negotiations regarding the Work under the Grant Agreement with state and federal governments.

11.7 CHANGE IN LAWS AND COMPLIANCE WITH LAWS

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

11.8 SUBCONTRACTORS

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

11.9 PERMITTING AND LICENSURE

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

11.10 INDEPENDENT CONTRACTOR

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

11.11 GOVERNING LAW AND VENUE

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

11.12 SEVERABILITY

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

11.13 SURVIVABILITY

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

11.14 FORCE MAJEURE

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

11.15 NO IMPLIED WAIVER OF PROVISIONS

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

11.16 FUNDING DISCLAIMERS AND LABELING

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

11.17 MEDIA RELEASES

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

11.18 PROHIBITION ON NON-COMPETE RESTRICTIONS

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

11.19 SOVEREIGN IMMUNITY

Nothing in the Grant Agreement will be construed as a waiver of the System Agency's or the State's sovereign immunity. This Grant Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas under the Grant Agreement or under applicable law shall not constitute

a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. System Agency does not waive any privileges, rights, defenses, or immunities available to System Agency by entering into the Grant Agreement or by its conduct prior to or subsequent to entering into the Grant Agreement.

11.20 ENTIRE CONTRACT AND MODIFICATION

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

11.21 COUNTERPARTS

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

11.22 PROPER AUTHORITY

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

11.23 E-VERIFY PROGRAM

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

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

11.24 CIVIL RIGHTS

- A. Grantee agrees to comply with state and federal anti-discrimination laws, including:
 - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.);
 - ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
 - iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.);
 - iv. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
 - v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
 - vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011 et seq.); and
 - vii. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Grant Agreement.
- B. Grantee agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.
- C. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require

contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

- D. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at:
<https://hhs.texas.gov/about-hhs/your-rights/civil-rights-office/civil-rights-posters>
- E. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.
- G. Grantee must notify HHSC's Civil Rights Office of any complaints of discrimination received relating to its performance under this Grant Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

HHSC Civil Rights Office
701 W. 51st Street, Mail Code W206
Austin, Texas 78751
Phone Toll Free: (888) 388-6332
Phone: (512) 438-4313
Fax: (512) 438-5885
Email: HHSCivilRightsOffice@hhsc.state.tx.us

11.25 ENTERPRISE INFORMATION MANAGEMENT STANDARDS

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

11.26 DISCLOSURE OF LITIGATION

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

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

11.27 NO THIRD PARTY BENEFICIARIES

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

11.28 BINDING EFFECT

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

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Certificate Of Completion

Envelope Id: 11B6310242414C8ABAC1B51A6CC3656F
Subject: Please Sign - \$292.633.00 HHS001311600001 Ector County A.1; CPS/PHIG
Source Envelope:
Document Pages: 48
Certificate Pages: 2
AutoNav: Enabled
Envelopeld Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:
CMS Internal Routing Mailbox
11493 Sunset Hills Road
#100
Reston, VA 20190
CMS.InternalRouting@dshs.texas.gov
IP Address: 167.137.1.8

Record Tracking

Status: Original
4/18/2024 2:45:24 PM

Holder: CMS Internal Routing Mailbox
CMS.InternalRouting@dshs.texas.gov

Location: DocuSign

Signer Events

BRANDY GARCIA
brandy.garcia@ectorcountytexas.gov
06/19/2023
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Jonah Wilczynski
jonah.wilczynski@dshs.texas.gov
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Patty Melchior
Patty.Melchior@dshs.texas.gov
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Dave Gruber
David.Gruber@dshs.texas.gov
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Signature**Timestamp**

Sent: 4/18/2024 2:56:46 PM
Resent: 6/27/2024 8:33:15 AM
Viewed: 6/27/2024 9:09:31 AM

In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp**

Carbon Copy Events	Status	Timestamp
Kristiana Flores Kristiana.Flores@dshs.texas.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign CMS Internal Routing Mailbox cms.internalrouting@dshs.texas.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	4/18/2024 2:56:46 PM
Envelope Updated	Security Checked	4/22/2024 11:47:37 AM
Envelope Updated	Security Checked	4/22/2024 11:47:37 AM
Envelope Updated	Security Checked	5/17/2024 4:10:54 PM
Envelope Updated	Security Checked	5/17/2024 4:10:54 PM
Payment Events	Status	Timestamps

**DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS000812700018
AMENDMENT NO. 4**

The **DEPARTMENT OF STATE HEALTH SERVICES** ("SYSTEM AGENCY" or "**DSHS**") and **ECTOR COUNTY** ("**GRANTEE**"), each a "Party" and collectively referred to as the "Parties" to that certain grant contract for SARS-CoV-2 epidemiology, surveillance, and enhanced laboratory activities effective August 19, 2020, and denominated DSHS Contract No. HHS000812700018 ("Contract"), as amended, now desire to further amend the Contract.

WHEREAS, the Parties desire to revise the Statement of Work; and

WHEREAS, the Parties desire to revise the Budget to add additional funding for SARS-CoV-2 outbreak response activities.

NOW, THEREFORE, the Parties amend and modify the Contract as follows:

1. **SECTION IV, BUDGET**, of the Contract is hereby amended to add **\$73,372.00** to the Contract for the period beginning with the effective date of this Amendment No. 4 and ending July 31, 2026, for SARS-CoV-2 outbreak response activities. The total amount of this Contract will not exceed **\$249,464.00**.
2. **ATTACHMENT A-1, REVISED STATEMENT OF WORK**, is deleted in its entirety and replaced with **ATTACHMENT A-4, REVISED STATEMENT OF WORK**, which is attached to this Amendment and incorporated as part of the Contract for all purposes.
3. **ATTACHMENT A-3, REVISED SUPPLEMENTAL STATEMENT OF WORK**, is deleted in its entirety.
4. **ATTACHMENT B-2, REVISED BUDGET**, is deleted in its entirety and replaced with **ATTACHMENT B-3, REVISED BUDGET**, which is attached to this Amendment and incorporated as part of the Contract for all purposes.

All expenditures under the Contract will be in accordance with **ATTACHMENT B-3, REVISED BUDGET**.

5. **ATTACHMENT A-4, REVISED STATEMENT OF WORK** is attached to this Amendment No. 4 and incorporated as part of the Contract for all purposes.
6. **ATTACHMENT B-3, REVISED BUDGET**, is attached to this Amendment No. 4 and incorporated as part of the Contract for all purposes.
7. This Amendment No. 4 shall be effective as of the date last signed below.
8. Except as amended and modified by this Amendment No. 4, all terms and conditions of the Contract, as amended, shall remain in full force and effect.

9. Any further revisions to the Contract shall be by written agreement of the Parties.
10. Each Party represents and warrants that the person executing this Amendment on its behalf has full power and authority to enter into this Amendment.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE FOR AMENDMENT NO. 4
DSHS CONTRACT NO. HHS000812700018

SYSTEM AGENCY

GRANTEE

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date of Signature: _____

Date of Signature: _____

ATTACHMENT A-4 REVISED STATEMENT OF WORK

I. GRANTEE RESPONSIBILITIES

Grantee will perform activities as submitted in their DSHS approved budgets for this specific funding Contract period. COVID-funded laboratory, surveillance, epidemiology, and informatics personnel may work on other respiratory pathogens and syndromes more broadly, in addition to SARS-CoV-2 and COVID-19, as long as COVID-19 testing or surveillance is included in the effort. In this Statement of Work where COVID-19 is referenced, it will now include other respiratory pathogens and syndromes. All activities must be listed below to be approved for this funding and any additional activities not listed in the approved budget must be submitted for DSHS consideration and approval. The activities for this Contract funding period are as follows:

A. Enhance Laboratory, Surveillance, Informatics and other Workforce Capacity, including:

1. Train and hire staff to improve laboratory workforce ability to address issues around laboratory safety, quality management, inventory management, specimen management, diagnostic and surveillance testing and reporting results.
2. Build expertise for healthcare and community outbreak response and infection prevention and control (IPC) among local health departments.
3. Train and hire staff to improve the capacities of the epidemiology and informatics workforce to effectively conduct surveillance and response of COVID-19 and other emerging infections and conditions of public health significance. This should include staff who can address unique cultural needs of those at higher risk for COVID-19. Grantee may not incur COVID-19 contact tracing or contact tracing call center expenditures after 8/31/2021.
4. Build expertise to support management of the COVID-19-related activities within the jurisdiction and integrate into the broader Epidemiology and Laboratory Capacity (ELC) portfolio of activities (e.g., additional leadership, program and project managers, budget staff, etc.).
5. Increase capacity for timely data management, analysis, and reporting for COVID-19 and other emerging coronavirus and other infections and conditions of public health significance.

B. Strengthen Laboratory Testing

1. Establish or expand capacity to test for SARS-CoV-2/COVID-19 quickly, accurately and safely and build infectious disease preparedness for future novel

coronavirus and other events involving other pathogens with potential for broad community spread.

- a. Develop systems to improve speed and efficiency of specimen submission to clinical and reference laboratories.
 - b. Strengthen ability to rapidly respond to testing (e.g., nucleic acid amplification test [NAAT], antigen, etc.) as necessary to ensure that optimal utilization of existing and new testing platforms can be supported to help meet increases in testing demand in a timely manner. Laboratory Response Networks (LRNs) and Local Health Departments (LHDs) with laboratories are strongly encouraged to diversify their testing platforms to enable them to pivot depending on reagent and supply availabilities.
 - c. Perform serology testing with an FDA Emergency Use Authorization (EUA) authorized serological assay as appropriate to respond to emerging pandemics in order to conduct surveillance for past infection and monitor community exposure.
 - d. Build local capacity for testing of SARS-CoV-2/COVID-19 including within high-risk settings or in vulnerable populations that reside in their communities.
 - e. Apply laboratory safety methods to ensure worker safety when managing and testing samples that may contain SARS-CoV-2/COVID-19.
 - f. Laboratories and LRNs are encouraged to implement new technologies to meet local needs.
 - g. Augment or add specificity to existing laboratory response plans for future coronavirus and other outbreak responses caused by an infectious disease. Provider must be able to establish a plan to maintain the activity when the funds are no longer available. This is an optional activity.
2. Enhance laboratory testing capacity for SARS-CoV-2/COVID-19 by ensuring public/private laboratory testing providers have access to biosafety resources for SARS-CoV-2 specimen collection and/or testing.

C. Advance Electronic Data Exchange at Public Health Labs

1. Enhance and expand laboratory information infrastructure, to improve jurisdictional visibility on laboratory data (tests performed) from all testing sites and enable faster and more complete data exchange and reporting with DSHS.
 - a. Employ a well-functioning Laboratory Information Management System (LIMS) to support efficient data flows within the Public Health Laboratory (PHL) and its partners. This includes expanding existing capacity of the current LIMS to improve data exchange and increase data flows through LIMS maintenance, new configurations/modules, and enhancements. Implement new/replacement LIMS where needed.

Note: If implementing new or replacement systems, develop an implementation plan, including appropriate milestones and timeline to completion. Implementation plans will be reviewed and approved for consistency with the activities set forth by DSHS prior to start of implementation. Completion of the implementation plan is DSHS verifying that the submitted electronic laboratory reporting (ELR) feeds

have been successfully processed in National Electronic Disease Surveillance System (NEDSS).

- b. Ensure ability to administer LIMS. Ensure the ability to configure all tests that are in LIMS, including new tests, EUAs, etc., in a timely manner. Ensure expanding needs for administration and management of LIMS are covered through dedicated staff.
- c. Interface diagnostic equipment to directly report laboratory results into LIMS.

D. Improve Surveillance and Reporting of Electronic Health Data

1. Establish complete, up-to-date, timely reporting to DSHS of outbreaks and unusual expression of disease (e.g., multi-system inflammatory syndrome, acute flaccid myelitis, etc.) due to COVID-19 and other emerging infections which impact conditions of public health significance by:
 - a. Establishing or enhancing community-based surveillance, including surveillance of vulnerable populations, individuals without severe illness, those with recent travel to high-risk locations, or who are contacts to known cases; and
 - b. Monitoring changes to activity trends (weekly, possibly daily) of COVID-19 and other conditions of public health significance at the county or Zip code level to inform community mitigation strategies.
2. Establish additional and ongoing surveillance methods (e.g., sentinel surveillance) for COVID-19 and other conditions of public health significance.
3. At the health department, enhance capacity to work with testing facilities to onboard and improve ELR, including to receive data from new or non-traditional testing settings. Use alternative data flows (e.g., reporting portals) and file formats (e.g., CSV or XLS) to help automate where appropriate.
4. Improve understanding of capacity, resources, and patient impact at healthcare facilities through electronic reporting.
 - a. Expand reporting facility capacity, resources, and patient impact information, such as patients admitted and hospitalized, in an electronic, machine-readable, as well as human-readable, visual and tabular manner, to achieve 100% coverage in jurisdiction and include daily data from all acute care, long-term care, and ambulatory care settings. Use this data to monitor facilities with confirmed cases of SARS-CoV-2/COVID-19 infection or with COVID-like illness among staff or residents and facilities at high risk of acquiring SARS-CoV-2/COVID-19 cases and COVID-like illness among staff or residents.
 - b. Increase Admit, Discharge, Transfer (ADT) messaging and use to achieve comprehensive surveillance of emergency room visits, hospital admissions, facility and department transfers, and discharges to provide an early warning signal, to monitor the impact on hospitals, and to understand the growth of serious cases requiring admission.

- c. Track and send Emergency Department and outpatient visits for coronavirus (COVID)-like illness, as well as other illnesses, to Texas Syndromic Surveillance System (TxS2).
5. Establish or improve systems to ensure complete, accurate and timely data transmission that allows for automated transmission of data to DSHS in a machine-readable format.

Note: Use of an existing DSHS system is preferred. If implementing new or replacement systems, develop an implementation plan, including the process for automatic transmission of data to DSHS in a machine-readable format, appropriate milestones and timeline to completion. Implementation plans will be reviewed and approved for consistency with the activities set forth by DSHS prior to start of implementation.

- a. In the event of a COVID-19-associated outbreak, a local health department should notify DSHS of the outbreak as soon as possible, by calling 512-776-7676 or emailing EAIDU-Coronavirus@dshs.texas.gov.
- b. In the event of a COVID-19-associated outbreak, a DSHS Respiratory Outbreak Form along with a line listing of cases, if possible, should be completed and submitted to EAIDU within seven days of outbreak resolution via EAIDU-Coronavirus@dshs.texas.gov or by fax at 512-776-7616.
- c. Establish these systems in such a manner that they may be used on an ongoing basis for surveillance of, and reporting on, routine and other threats to the public health and conditions of public health significance.

E. Use Laboratory Data to Enhance Investigation, Response and Prevention

1. Use laboratory data to initiate and conduct outbreak and/or unusual expression of disease investigation and public health follow-up activities and implement containment measures.
 - a. Conduct necessary outbreak investigation and public health follow-up activities. Activities may include traditional case investigation for cases associated with an outbreak and public health follow-up activities and/or proximity/location-based methods, as well as methods adapted for healthcare facilities, employers, elementary and secondary schools, childcare facilities, institutions of higher education or in other settings. Data must be entered into the DSHS data system in accordance with DSHS published guidance. Grantee may not incur COVID-19 contact tracing or contact tracing call center expenditures beyond 8/31/2021.
 - b. Utilize tools (e.g., geographic information systems and methods) that assist in the rapid mapping and tracking of disease cases for timely and effective epidemic monitoring and response, incorporating laboratory testing results and other data sources.
 - c. Assist in identifying facilities that are not submitting data through ELR. Provide these facilities with information on the ELR onboarding process and the appropriate contact information of DSHS team who can onboard the

facility to have their data be reported electronically and no longer sent by fax. Also provide the names of these facilities to the DSHS team.

2. Identify cases associated with an outbreak, and exposure to COVID-19 in high-risk settings or within populations at increased risk of severe illness or death to target mitigation strategies and referral for therapies (for example, monoclonal antibodies) to prevent hospitalization.
 - a. Assess and monitor infections in healthcare workers across the healthcare spectrum.
 - b. Monitor cases associated with an outbreak, and exposure to COVID-19 to identify need for targeted mitigation strategies to isolate and prevent further spread within high-risk healthcare facilities (e.g., hospitals, dialysis clinics, cancer clinics, nursing homes, other long-term care facilities, etc.).
 - c. Monitor cases associated with an outbreak, and exposure to COVID-19 to identify need for targeted mitigation strategies to isolate and prevent further spread within high-risk occupational settings (e.g., meat processing facilities) and congregate living settings (e.g., correctional facilities, prisons, youth homes, shelters).
 - d. Work with DSHS to build capacity for reporting, rapid containment and prevention of SARS-CoV-2/COVID-19 within high-risk settings or in vulnerable populations that reside in their communities.
 - e. Jurisdictions should ensure systems are in place to link test results to relevant public health strategies, including prevention and treatment.

Note: Utilization of an existing DSHS system is preferred. If implementing new or replacement systems, develop an implementation plan, including the process for automatic transmission of data to DSHS in a machine-readable format, appropriate milestones and timeline to completion. Implementation plans will be reviewed and approved for consistency with the activities set forth by DSHS prior to start of implementation.

3. Implement prevention strategies in high-risk settings or within vulnerable populations (including tribal nations as appropriate),

Note: These additional resources are intended to be directed toward testing, outbreak investigation and public health follow-up activities, surveillance, containment, and mitigation, including support for workforce, epidemiology, use by employers, elementary and secondary schools, childcare facilities, institutions of higher education, long-term care facilities, or in other settings, scale-up of testing by public health, academic, commercial, and hospital laboratories, and community-based testing sites, mobile testing units, healthcare facilities, and other entities engaged in COVID-19 testing, and other related activities related to COVID-19 testing, case investigation and public health follow-up activities, surveillance, containment, and mitigation which may include interstate compacts or other mutual aid agreements for such purposes.

- a. Build capacity for infection prevention and control in long-term care facilities (LTCFs) (e.g., at least one Infection Preventionist [IP] for every facility) and outpatient settings.
 - i. Build capacity for LTCFs to safely care for infected and exposed residents of LTCFs and other congregate settings.
 - ii. Assist with enrollment of all LTCFs into CDC's National Healthcare Safety Network (NHSN) at <https://www.cdc.gov/nhsn/lte/enroll.html>.
 - b. Build capacity for infection prevention and control in elementary and secondary schools, childcare facilities, and/or institutions of higher education.
 - c. Increase Infection Prevention and Control (IPC) assessment capacity on site using tele-ICAR.
 - d. Perform preparedness assessment to ensure interventions are in place to protect high-risk populations.
 - e. Coordinate as appropriate with federally funded entities responsible for providing health services to higher-risk populations (e.g., tribal nations and federally qualified health centers).
- F. Work with healthcare system to manage and monitor system capacity.
 1. Assess and monitor the number and availability of critical care staff, necessary personal protective equipment (PPE) and potentially life-saving medical equipment, as well as access to testing services.
 2. Leverage NHSN data to **monitor** healthcare worker staffing, Patient Impact, Hospital Capacity, and healthcare supplies (PPE, PAPRs, ventilators, etc.). Grantee will request access to the NHSN database within thirty (30) days of the execution of this Contract or within thirty (30) days of hire for the position completing the data entry. Upon access approval, Grantee will review available NHSN data (at least monthly) to assess gaps in the healthcare system.
- G. Improve understanding of jurisdictional communities with respect to COVID-19 risk. Grantee must build an understanding of population density and high-risk population density (i.e., population of >65 yrs., proportion of population with underlying conditions, households with limited English fluency, healthcare-seeking behavior, populations without insurance and those below poverty level).
- H. Submit a quarterly report on the report template to be provided by DSHS. Quarterly reports are due on or before the 15th of the month following the end of the quarter. Each report must contain a summary of activities that occurred during the preceding quarter for each activity listed above in Section I, Subsections A through G. Submit quarterly reports by electronic mail to COVID.Contracts@dshs.texas.gov. The email "Subject Line" and the name of the attached file for all reports should be clearly identified with the Grantee's Name, Contract Number, IDCU/COVID and the quarter the report covers.
- I. May use funds to pay pre-award costs which date back to January 20, 2020, that are directly related to the COVID-19 outbreak response. All pre-award costs must be approved in writing by DSHS.

- J.** Not use funds for research, clinical care, fundraising activities, construction or major renovations, to supplant existing state or federal funds for activities, or funding an award to another party or provider who is ineligible. In addition, funds are not used to advertise or to promote COVID-19 vaccinations. Other than normal and recognized executive-legislative relationships, no funds may be used for:
1. Publicity or propaganda purposes, for the preparation, distribution, or use of any material designed to support or defeat the enactment of legislation before any legislative body;
 2. The salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative act or Executive order proposed or pending before any legislative body;
 3. New incentive requests, new requests to purchase vehicles, furniture, and new requests for construction will no longer be supported. The allowance of these purchases was uniquely given during the pandemic, but they are not allowed under routine operations; and
 4. Grantee shall ensure funds are not used to advertise or to promote COVID-19 vaccinations.
- K.** 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.
- L.** Grantee shall maintain an inventory of equipment, supplies defined as Controlled Assets, and real property. Grantee shall submit an annual cumulative report on DSHS Grantee's Property Inventory Report to the DSHS Contract Representative and FSOequip@dsht.texas.gov by email not later than October 15 of each year.
- M.** DSHS funds must not be used to purchase buildings or real property without prior written approval from DSHS. Any costs related to the initial acquisition of the buildings or real property are not allowable without written pre-approval.
- N.** At the expiration or termination of this Contact for any reason, title to any remaining equipment and supplies purchased with funds under this Contract reverts to DSHS. Title may be transferred to any other party designated by DSHS. DSHS may, at its option and to the extent allowed by law, transfer the reversionary interest to such property to Grantee.
- O.** DSHS-approved budget may be revised by Grantee in accordance with the following requirements:

1. For any transfer between budget categories, Grantee shall provide notification of transfer between budget categories by submission of a revised Categorical Budget Form to the DSHS Contract Representative, highlighting the areas affected by the budget transfer and written justification for the transfer request. After DSHS review, the designated DSHS Contract Representative will provide notification of acceptance or rejection to Grantee by email.
2. For transfer of funds between direct budget categories, other than the 'Equipment' and 'Indirect Cost' categories, for less than or equal to a cumulative twenty-five (25) percent of the total value of the respective Contract budget period, Grantee shall submit timely written notification to DSHS Contract Representative using the Revised Budget Form and request DSHS approval. If approved, DSHS Contract Representative will provide notification of acceptance to Grantee by email, upon receipt of which, the revised budget will be incorporated into the Contract.
3. For transfer of funds between direct budget categories, other than the 'Equipment' and 'Indirect Cost' categories, that cumulatively exceeds twenty-five (25) percent of the total value of the respective Contract budget period, Grantee shall submit timely written notification to DSHS Contract Representative using the Revised Budget Form and request DSHS approval. If the revision is approved, the budget revision is not authorized, and the funds cannot be utilized, until an amendment is executed by the Parties.
4. Any transfer between budget categories that includes 'Equipment' and/or 'Indirect Cost' categories must be incorporated by amendment. Grantee shall submit timely written notification to DSHS Contract Representative using the Revised Budget Form and request DSHS approval. If the revision is approved, the budget revision is not authorized, and the funds cannot be utilized, until an amendment is executed by the Parties.

II. PERFORMANCE MEASURES

The System Agency will monitor the Grantee's performance of the requirements in Attachment A-4 and compliance with the Contract's terms and conditions.

III. INVOICE AND PAYMENT

- A. Grantee shall submit to DSHS a monthly detailed and accurate invoice describing the services performed in completion of the responsibilities outlined in this Statement of Work. Invoices and supporting documentation must be submitted to DSHS in accordance with Table 1, Invoice Submission Schedule.
- B. Grantee shall request payments monthly using the State of Texas Purchase Voucher (Form B-13). Invoices and supporting documentation must be submitted monthly to prevent delays in subsequent months. Grantees that do not incur expenses within a month are required to submit a "zero dollar" invoice on a monthly basis. Grantee must

submit a final close-out invoice. Invoices received more than thirty (30) days after each fiscal year are subject to denial of payment. Invoices and all supporting documentation must be submitted by mail, fax, or email.

1. If by mail, Grantee shall submit to:
Department of State Health Services
Claims Processing Unit, MC 1940
P.O. Box 149347
Austin, TX 78714-9347
2. If by fax, Grantee shall submit to (512) 458-7442.
3. If by email, Grantee shall submit to invoices@dshs.texas.gov and CMSInvoices@dshs.texas.gov.

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

Table 1: Invoice Submission Schedule	
Period Covered	Due Date
September 1st through September 30th	October 31st
October 1st through October 31st	November 30th
November 1st through November 30th	December 31st
December 1st through December 31st	January 31st
January 1st through January 31st	February 28th (or February 29th in leap year)
February 1st through February 28th (or February 29th in leap year)	March 31st
March 1st through March 31st	April 30th
April 1st through April 30th	May 31st
May 1st through May 31st	June 30th
June 1st through June 30th	July 31st
July 1st through July 31st	August 31st
August 1st through August 31st	September 30th
Final Close-out Invoice	Due Date
August 1st through August 31st	September 30th

- C. Grantee shall submit the Financial Status Report (FSR-269A) twice per fiscal year as outlined in Table 2, FSR Submission Schedule. Grantee shall email the FSR-269A to the following email addresses: FSRgrants@dshs.texas.gov and CMSInvoices@dshs.texas.gov. Grantee shall submit the final financial status report no later than thirty (30) days following the end of the Contract term.

Table 2: FSR Submission Schedule	
Period Covered	Due Date
September 1st through February 28th (or February 29th in leap year)	March 31st
Final Financial Status Report March 1st through August 31st	September 30th

- D. Grantee will be paid on a cost reimbursement basis and in accordance with the budget for the corresponding year under this Contract.

ATTACHMENT B-3 REVISED BUDGET

Categorical Budget	Epi CARES Funding	Epi Expansion Funding	
Budget Period	August 19,2020 to July 31, 2026	August 25, 2021 to July 31, 2026	Contract Total
Personnel	\$0.00	\$0.00	\$0.00
Fringe Benefits	\$0.00	\$0.00	\$0.00
Travel	\$5,848.00	\$3,382.00	\$9,230.00
Equipment	\$0.00	\$0.00	\$0.00
Supplies	\$11,390.00	\$9,700.00	\$21,090.00
Contractual	\$52,332.00	\$157,523.00	\$209,855.00
Other	\$8,693.00	\$596.00	\$9,289.00
Total Direct	\$78,263.00	\$171,201.00	\$249,464.00
Indirect Charges	\$0.00	\$0.00	\$0.00
Total	\$78,263.00	\$171,201.00	\$249,464.00

Certificate Of Completion

Envelope Id: 5D8584F9550F478699D57D25B04FAA5D
Subject: Please DocuSign: HHS000812700018 Ector A-4 IDCU
Source Envelope:
Document Pages: 14
Certificate Pages: 2
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:
CMS Internal Routing Mailbox
11493 Sunset Hills Road
#100
Reston, VA 20190
CMS.InternalRouting@dshs.texas.gov
IP Address: 160.42.88.49

Record Tracking

Status: Original
6/25/2024 2:27:15 PM

Holder: CMS Internal Routing Mailbox
CMS.InternalRouting@dshs.texas.gov

Location: DocuSign

Signer Events**Signature****Timestamp**

Dustin Fawcett
Dustin.fawcett@ectorcountytx.gov
Security Level: Email, Account Authentication
(None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Sent: 6/25/2024 2:33:47 PM

Susana Garcia
susana.garcia@dshs.texas.gov
Security Level: Email, Account Authentication
(None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Patty Melchior
patty.melchior@dshs.texas.gov
Security Level: Email, Account Authentication
(None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Varun Shetty
Varun.Shetty@dshs.texas.gov
Security Level: Email, Account Authentication
(None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp**

Carbon Copy Events	Status	Timestamp
<div>Brandy Garcia brandy.garcia@ectorcountytx.gov 06/19/2023 Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign</div> <div>Michelle Hilscher michelle.hilscher@dshs.texas.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign</div> <div>CMS Inbox cmucontracts@dshs.texas.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign</div> <div>Caeli Paradise caeli.paradise@dshs.texas.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign</div>	<div>COPIED</div>	<div>Sent: 6/25/2024 2:33:48 PM Viewed: 6/25/2024 7:26:48 PM</div>
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/25/2024 2:33:48 PM
Payment Events	Status	Timestamps

TEMPORARY EMPLOYEE STAFFING AGREEMENT

This Temporary Employee Staffing Agreement ("Agreement"), is made and entered into as of _____ (the "Effective Date"), by and between HEALTH ADVOCATES NETWORK, INC., a Florida corporation, located at 1875 NW Corporate Blvd, Suite 120, Boca Raton, FL 33431, its successors and assigns ("HAN") and County of Ector Law Enforcement, located at 2500 S. US HWY 385, Odessa, TX 79764 (the "Client"). HAN and Client are sometimes referred to herein individually as a "Party" or collectively as the "Parties."

WHEREAS, HAN is engaged in the business of providing workers to perform services for clients on a temporary basis; and

WHEREAS, Client desires to engage HAN to provide such services.

NOW, THEREFORE, for and in consideration of the mutual covenants, terms, and conditions contained herein, the Parties agree as follows:

1. **Services.** HAN agrees to use commercially reasonable efforts to recruit, qualify and supply to Client healthcare professionals, including but not limited to, Registered Nurses, Licensed Practical Nurses, and Allied Professionals, as well as other non-clinical supplemental staff ("Assigned Employees") on a travel contract, local contract and per diem basis as requested by Client from time to time. HAN shall ensure that Assigned Employees referred to Client meet the qualifications set forth on **Exhibit B** attached hereto. If Client finds any Assigned Employee's qualifications or general work-related behavior lacking, it shall advise HAN within 24 hours of discovering the insufficiency. HAN will make reasonable efforts to replace the Assigned Employee(s) as soon as practicable. It is understood between the Parties that the clinical terms stated under this Agreement shall not be applicable to non-clinical Assigned Employees. HAN will pay, withhold, and transmit payroll taxes, provide unemployment insurance and workers' compensation in an amount no less than required by law, and handle workers' compensation and unemployment claims involving Assigned Employees. HAN shall designate and provide an account manager to Client as needed to process all Assigned Employee job requests and coordinate, manage, and oversee Assigned Employees at Client's facility. HAN shall arrange for substitutes to cover the account manager's absences.

2. **Client Duties and Responsibilities.** Client shall: (a) inform Assigned Employees of the Client's work to be performed, and Client shall be responsible for its business operations and services; (b) be solely responsible for the supervision and control of Assigned Employees in the course of their work while at Client's location; (c) properly safeguard and control its premises, processes, or systems, and shall not permit Assigned Employees to operate Client's vehicles or mechanical equipment, or entrust them with unattended premises, property, or other valuables, without HAN's express prior written approval; and (d) provide Assigned Employees with a safe worksite and provide appropriate information, training, and safety equipment. Client shall not: (x) include Assigned Employees in Client's benefits plans, policies, or practices, or make any offer or promise relating to Assigned Employee compensation or benefits; or (y) change Assigned Employee job duties without HAN's express prior written approval.

3. **Payment for Services.** HAN shall invoice Client for services provided in accordance with this Agreement on a weekly basis at the rates set forth in **Exhibit A**. Payment is due upon receiving the invoice. Invoices will be accompanied by documentation evidencing time worked by each Assigned Employee. Client is responsible for approving Assigned Employee timesheets (or such

other documentation evidencing each Assigned Employee's time worked) on a weekly basis ("Time Record"). Client's signature on the Time Record certifies that the hours shown are correct, that the work was performed to Client's satisfaction, and that HAN is authorized to bill Client for those hours. If any portion of any invoice is disputed, Client shall pay the undisputed portion as the Parties attempt to resolve any disputed amounts. Client agrees to pay late charges on any unpaid balances after 30 days from the date of invoice at the rate of 1.5% per month or the maximum legal rate, whichever is less.

4. Insurance. At all times during the term of this Agreement, HAN shall, at its sole cost and expense, cover its staffing operations for Client with at least the following types and limits of insurance or other coverage, and shall provide Client with proof of such coverage on Client's request: (a) general liability insurance with limits of \$1 million per occurrence and \$3 million aggregate and name Client as an additional insured; (b) commercial automobile liability with limits no less than \$500,000, combined single limit, arising out of the use of any non-owned or hired automobile, and name Client as an additional insured; (c) professional liability insurance covering any damages caused by an error, omission, or a negligent act within the limits of \$1 million per occurrence and \$3 million aggregate, and name Client as an additional insured; (d) cyber liability insurance with a limit no less than one million dollars (\$1,000,000) per occurrence; and (e) Workers' compensation and employer's liability for HAN's legal and statutory obligations for damages to bodily injuries either by accident or disease, occurring to Assigned Employees as a result of employment. HAN will provide certificates of insurance to Client as evidence that all requested coverage has been obtained and is in full force and effect.

5. Indemnification. To the fullest extent permitted by law, each Party (an "Indemnifying Party") agrees to indemnify, defend, and hold the other Party and the other Party's respective affiliates, and each of their respective officers, directors, agents, and employees (each an "Indemnified Party"), harmless from any claims, damages, interest, penalties, and attorneys' fees and costs ("Losses") to the extent caused by: (i) any breach of this Agreement by the Indemnifying Party or its agents; (ii) violations of applicable law by the Indemnifying Party or its agents in connection with the performance of this Agreement; and (iii) negligent or willful acts or omissions of the Indemnifying Party or its agents in connection with the performance of this Agreement; except that the indemnity obligations in this section shall not apply to the extent the Losses are caused by the negligent act or omission, willful misconduct, breach of this Agreement or unlawful act of an Indemnified Party. Any person or entity claiming a right to indemnity under this Agreement (the "Indemnitee(s)") shall notify all entities and persons that it believes may owe a duty to indemnify it (the "Indemnitor(s)") in writing promptly after receiving notice of a claim, lawsuit, demand, or action or threatened claim, lawsuit, demand, or action for Losses covered by the indemnity obligations in this section (a "Claim") and provide documentation pertaining to the Claim to the Indemnitors upon request. The Indemnitees and Indemnitors agree to keep each other reasonably informed regarding the status of any Claim and allow each other reasonable opportunities to participate in the defense and settlement of any Claim, including by providing notice and consulting with each other prior to settling any Claim. Any omission or delay in complying with this section by an Indemnitee shall relieve an Indemnitor of its obligations to the extent it is prejudiced by such omission or delay. Notwithstanding anything to the contrary in this Agreement, this section shall survive any termination or expiration of this Agreement. The Parties agree that this section constitutes the complete agreement between the Parties with respect to indemnification and each Party waives its right to assert any common law indemnification or contribution claim against the other Party.

6. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, UNDER NO CIRCUMSTANCES WILL HAN BE LIABLE TO CLIENT FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING, BUT NOT LIMITED TO, FINES OR PENALTIES AND LOSS OF PROFITS, WHETHER IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE),

WARRANTY OR OTHERWISE, WHETHER OR NOT HAN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

7. Confidentiality. The Parties acknowledge that a Party may receive from the other Party, from time to time, information and/or material which is confidential in nature, including, but not limited to information relating to HAN's candidates, employees, or personnel, information that may be confidential or proprietary as to Client, Client's patients, or Compliance Documentation or Competency Documentation (collectively, the "Confidential Information"). As a result, the Parties agree to treat as confidential and not to divulge to any third parties any Confidential Information, except to employees, agents, attorneys, accountants, or representatives of the Parties who reasonably need to know the Confidential Information and only as necessary for the performance of services under this Agreement or as otherwise compelled or required by law. In the event a Party provides any such Confidential Information to its employees, agents, or contractors, such Party shall assure that any and all such employees, agents, and/or contractors are obligated in writing to treat such information and/or material as confidential. The Parties agree to use reasonable security measures to protect the other Party's Confidential Information from unauthorized access, destruction, use, modification, or disclosure, and to notify the other Party immediately upon learning of any such breach or improper disclosure of Confidential Information. Nothing herein, shall prohibit either Party from responding to lawful inquiries from government agencies or other lawful process, such as subpoenas.

8. EEO Clause. HAN is an Equal Employment Opportunity Employer. Neither Party shall discriminate against any individual, including any Assigned Employee, with respect to his or her compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, gender, gender identity, gender expression, genetic characteristic, national origin, age, handicap, medical condition, marital status, veteran status, status as a member of the Uniformed Services, or any other status protected by law. The Parties incorporate by reference required federal and state contracting laws and Executive Orders relative to Equal Employment Opportunity and Affirmative Action, including, but not limited to Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000), as amended by the Equal Opportunity Act of March 24, 1972, Executive Order 11246, as amended; 41 C.F.R. 60-1.4 (Equal Opportunity Clause); 41 C.F.R. 60-250.4 (Disabled Veteran/Vietnam Veterans); and 41 C.F.R. 60-741.4 (Disabled Persons). If applicable, the Parties shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans. If applicable, the Parties shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities. The Parties also agree to comply with 29 C.F.R. part 470 (Notice of Employee Rights Concerning Payment of Union Dues) and other federal, state or local notice requirements, to the extent applicable.

9. Access Clause; Compliance with Section 420.302(b). HAN agrees to comply with 42 C.F.R. Section 420.302(b) and will provide access to the Comptroller General of the United States, the Department of Health and Human Services and their duly authorized representatives to this Agreement and all books, documents and records necessary to certify the nature and extent of the costs of the services performed. This includes organizations related to HAN that have a contract with HAN for which the cost or value is \$10,000 or more in a 12-month period. Said access shall be limited to a period of four (4) years after the furnishing of services hereunder.

10. Compliance with Applicable Laws, Policies and Standards. HAN agrees to abide by and comply with all applicable local, state, and federal regulatory agency requirements, including, but not limited, to HIPAA, and implementing regulations, and any other local, state and federal laws governing temporary workers or the confidentiality of patient information, standards of The Joint Commission and Occupational Safety and Health Administration regulations, as applicable. To the extent provided in advance, HAN and its Assigned Employees shall comply with Client's applicable and lawful bylaws, rules, regulations, policies, and compliance programs, including, but not limited to those related to: conflicts of interest, code of conduct, dress code, equipment, confidentiality, privacy of individually identifiable health information regulations under the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA") and safety. Client and HAN affirm and agree that for purposes of all statutory and regulatory requirements for

employee meal and rest breaks, and leaves of absence, including the Family and Medical Leave Act and any similar state or local law, Client and HAN shall cooperate in compliance with any such requirements. As Client controls the facilities in which Assigned Employees work, Client agrees that it is primarily responsible for maintaining a safe worksite in compliance with the Occupational Safety and Health Act and comparable state laws and regulations thereunder, to the extent those laws apply to Assigned Employees assigned to Client's worksite, except as may be otherwise agreed in writing signed by the Parties hereto. Given the nature of Clients' business, the Parties agree that this relationship may meet the requirements established in 45 C.F.R. Part 164 for a business associate agreement. HAN agrees to execute and deliver a business associate agreement upon request by Client.

11. Notification of Event, Action, Claim or Investigation. In the event of any event, actual or threatened claim, lawsuit, action, complaint, grievance, or investigation arising out of or relating to services provided by HAN or an Assigned Employee hereunder (an "Event"), the Parties shall provide one another with written notice of such Event immediately and, in no event more than five (5) days after such Party knew, or reasonably should have known of such Event. The Parties shall use reasonable efforts to cooperate with any investigation regarding such Event.

12. Independent Nature of Parties. HAN provides services to Client as an independent contractor. As such, Client shall have no responsibilities with respect to compensation of Assigned Employees. Neither Party to this Agreement shall make any commitments, nor incur any charges or expenses for, in the name of the other Party, nor be considered the agent, partner, joint venture, franchisor, franchisee, employer, or employee of the other Party. Nothing contained in this Agreement will be construed to create a joint venture or partnership, or the relationship of principal and agent, or employer and employee, between HAN and Client.

13. Term and Termination. This Agreement shall commence as of the Effective Date and shall continue thereafter for an initial period of twenty-four months and renew automatically for successive one (1) year periods, unless sooner terminated. This Agreement may be terminated by either Party upon 90 days' written notice to the other Party. Notwithstanding the above, either Party may terminate this Agreement, effective upon written notice to the other party (the "Defaulting Party"), if the Defaulting Party: (a) breaches this Agreement, and such breach is incapable of cure, or with respect to a breach capable of cure, the Defaulting Party does not cure such breach within thirty (30) days after receipt of written notice of such breach; or (b) (i) becomes insolvent or admits its inability to pay its debts generally as they become due; (ii) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven (7) business days or is not dismissed or vacated within forty-five (45) days after filing; (iii) is dissolved or liquidated or takes any corporate action for such purpose; (iv) makes a general assignment for the benefit of creditors; or (v) has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business. Unless termination is due to default, the Parties agree that any current assignments or scheduled assignments will continue under the terms of this Agreement and the assignment confirmation until the expiration of the assignment confirmation.

14. Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to any conflict of law principles.

15. Attorneys' Fees. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either party hereto against the other party arising out of or related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing party.

16. No Exclusions. HAN represents and warrants to Client that it and any Assigned Employees furnished under this Agreement: (i) are not excluded, suspended or debarred from, or otherwise ineligible for, participation in any federal or state healthcare program including, without limitation, Medicare or Medi-Cal (Medicaid), and (ii) have not been convicted of a criminal offense related to conduct that would or could trigger an exclusion from any federal or state healthcare program including, without limitation, Medicare or Medi-Cal (Medicaid). HAN shall notify Client immediately in writing of (i) any threatened, proposed or actual exclusion,

suspension or debarment, and/or (ii) any conviction of a criminal offense related to conduct that would or could trigger an exclusion of HAN or any Assigned Employees furnished under this Agreement, from any federal or state healthcare program. Notwithstanding any other provision of this Agreement to the contrary, and as set forth below, if HAN or any Assigned Employee furnished under this Agreement is (i) excluded, suspended, debarred from, or otherwise becomes ineligible for, participation in any federal or state healthcare program (collectively "exclusion"), or (ii) convicted of a criminal offense related to conduct that would or could trigger an exclusion from any federal or state health care program, at any time during the term of this Agreement, or (iii) if at any time after the Effective Date of this Agreement, Client determines that the representations and warranties of HAN, are or were false, or that HAN is otherwise in violation or breach of this section, Client may terminate this Agreement immediately as of the effective date of any exclusion from any federal or state healthcare program, conviction, or any other violation or breach of this section.

17. Force Majeure. HAN shall not be responsible for any failure or delay under this Agreement if such failure or delay is due to strikes, fires, natural disasters, pandemics, or any other acts, causes or occurrences beyond the control of HAN.

18. Notices. All notices, requests, demands or other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the Party to whom notice is to be given, or on the second day after mailing if mailed to the Party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, and properly addressed as provided below, or on the date emailed if emailed to the designated email before 5:00 p.m. Eastern Time. Any Party may change its address for purposes of this paragraph by giving the other Party written notice of the new address in the manner set forth above.

To: County of Ector Law Enforcement
Attn: Rogin McCullough, Health Service Administrator
2500 S US HWY 385
Odessa, TX 79764
Email: Robin.McCullough@ectorcountysheriff.us

To: Health Advocates Network, Inc.
Attn: Legal Department
1875 NW Corporate Blvd, Suite 120
Boca Raton, FL 33431
legal@hanstaff.com

19. Survival. Those provisions that by their nature are intended to survive termination or expiration of this Agreement shall so survive any termination or expiration of this Agreement.

20. Miscellaneous.

20.1 Each Party shall, upon the reasonable request of the other Party, promptly execute such documents and perform such acts as may be necessary to give full effect to the terms of this Agreement.

20.2 This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.

20.3 Neither Party may assign, transfer, or delegate any or all of its rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Any attempted assignment, transfer, or other conveyance in violation of the foregoing shall be null and void and shall not relieve the assigning Party of any of its obligations hereunder. Notwithstanding the foregoing, HAN may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of Client to: one or more of its wholly owned subsidiaries or affiliates; and an entity that acquires all or substantially all of the business or assets of HAN to which this Agreement pertains, whether by merger, reorganization, acquisition, sale, or otherwise. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

20.4 HAN may engage subcontracting agencies for the performance of any of HAN's duties or obligations under this Agreement, provided prior to the commencement of any work by a subcontracting agency, HAN: enters into a written agreement with such subcontracting agency that binds the subcontracting agency to terms at least as restrictive as those of HAN's obligations under this Agreement; and uses commercially reasonable efforts to subcontract only with subcontracting agencies that have the requisite skills to perform any subcontracted obligations in accordance with the terms of this Agreement.

20.5 This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each Party hereto. No waiver by a Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

20.6 If any term or provision of this Agreement is invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

20.7 This Agreement, and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the Parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

20.8 This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The Exhibits, and any other documents incorporated herein by reference shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

20.9 Captions and headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.


20.10 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

HEALTH ADVOCATES NETWORK, INC.

CLIENT:

By 
Name: Andrew S. Goldwyn
Title: CAO & General Counsel

By _____
Name:
Title:

EXHIBIT A

A. BILL RATES. Client agrees to pay hourly base bill rates as indicated below. For Disciplines not specifically identified below, the Hourly Base Bill Rate will be memorialized: (i) in an Assignment Confirmation for any contract assignments; or (ii) by email confirmation, in advance of the shift worked, for a per diem Assigned Employee. In the event there is a critical need, as mutually agreed upon between the Parties, the Parties agree to a 20% enhancement of the Hourly Base Bill Rates stated below.

Disciplines	Hourly Base Bill Rates:	
	Local	Travel ²
LVN	\$53.00	\$61.00
CMA	\$41.00	\$48.00
EMT	\$41.00	\$48.00
Dentist	\$150.00	\$185.00

- (1) The Parties will confirm via email any instance where an Incentivized Rate applies.
(2) Travel rates apply to contract assignments over a 50-mile radius.

B. SHIFTS AND DIFFERENTIAL RATES. Shifts are typically 8, 10 or 12 hours. Shift differential rates become part of the Hourly Base Bill Rate when applicable, as follows:

Shifts	Typical Shift Times	Differential Rates
Nights	7pm-7am; 11pm-7am	\$2.00
Weekend	Saturday & Sunday	\$2.00

Differential Rates are included as part of Hourly Base Bill Rates for purposes of overtime and holiday multipliers.

C. SALES, GROSS RECEIPTS, AND/OR APPLICABLE TAXES. Rates do not include, if applicable, state and local sales tax, gross receipts tax or other applicable taxes. Services provided that are subject to such taxes will be billed at the appropriate rate plus the applicable taxes, payable by the Client. Taxability will be determined based on the location where the service is provided. If Client is exempt from such taxes or should not be charged for other legal reasons; it is Client's duty to provide proof of exemption to HAN.

D. ORIENTATION. Assigned Employees receive an orientation to HAN's policies and procedures. It is the responsibility of Client to orient Assigned Employees to: (i) Client's rules, regulations, policies and procedures, including dress code; (ii) acquaint Assigned Employees with the facility, including physical layout and equipment; and (iii) validate competency and ability of Assigned Employees to properly use equipment.

E. OVERTIME. Client acknowledges and agrees that Assigned Employees are entitled to premium payment for overtime compensation as required under applicable federal, state, or local law. Client will be billed 1.5 times the Hourly Base Bill Rate for all overtime hours in accordance with the current state and federal laws, rules and regulations where such services are being provided. In the event overtime is not required by law, calculations of overtime will be 1.5 times the rates listed herein. HAN acknowledges and agrees that it is solely responsible for ensuring all hours worked by Assigned Employees are paid at the legally required rate.

F. HOLIDAYS. Client's holidays, including New Year's Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day will be billed at 1.5 times the applicable Hourly Base Bill Rate (the "Holiday Rate"). The Holiday Rate is in effect for all 9-, 10- and 12-hour shifts from 7pm on the eve of the holiday to 7 pm on the night of the holiday with the exception of Christmas and New Year's which will be in effect starting at 3pm on the eve of the holiday. For all other shifts, including 8-hour shifts, the Holiday Rate is in effect from 11 pm on the eve of the holiday to 11 pm on the night of the holiday.

G. INCENTIVIZED RATES. The Parties may designate certain Specialties with an incentivized rate at the time of order above the Base Hourly Bill Rate ("Incentivized Rates"). Incentivized Rates may be used in instances where there is less than adequate time to fill a position or there is a unique demand for a particular specialty requiring Incentivized Rates to attract candidates. Such Incentivized Rates shall be used for the duration or extension of such assignment. Either Party may propose such rates including the details of the bill rate change, prior to enacting Incentivized Rates and Client shall confirm its approval in writing by email confirmation.

H. ON CALL. Client will be invoiced for and will pay \$8.00 per hour for all Assigned Employees placed on On-Call status.

I. CALL BACK. Client will pay 1.5 times the Hourly Base Bill Rate for all call-back hours worked by Assigned Employees. In the event an Assigned Employee works call-back hours in excess of forty (40) hours for that workweek (whether regular or call-back hours), such Assigned Employee shall be paid in accordance with overtime rates for any hours worked in excess of forty hours per workweek. The minimum hours invoiced when an Assigned Employee is called into work while on "On-Call" status will be two (2) hours, or in accordance with Client's policy, whichever is greater.

J. BREAKS AND REST PERIODS. Client agrees to schedule and supervise all Assigned Employees while on assignment with Client and provide all Assigned Employees with all meal periods and rest breaks required by law. Client shall reimburse HAN for any costs, including penalties incurred by HAN should Client fail to comply with this requirement.

K. WORKWEEK. The workweek is defined as Sunday through Saturday.

L. TERMINATION OF ASSIGNED EMPLOYEE WITH "CAUSE". Assigned Employees may be terminated for "cause" upon notification from Client. As used herein, "cause" means any violation of Client's written policies, insubordination, poor attendance, poor performance, misconduct or any violation of drug abuse policy or any other act or omission by the Assigned Employee which may have an adverse impact on the Client. Client will be billed for all hours worked by any such Assigned Employee up to and including such termination.

M. MINIMUM GUARANTEE.

- a) **Contract Assigned Employees.** Assignments for Contract Assigned Employees are to be set forth in an assignment confirmation, which will designate the shift times, workdays and minimum guaranteed hours per week. Client reserves the right to cancel, without penalty, two (2) shifts per contract assignment/extension for any assignment confirmation or extension 13-weeks or greater in duration. Any guaranteed hours not met shall be paid by Client at such Assigned Employee's Hourly Base Bill Rate. Guaranteed hours do not include any "On-Call" time worked.

Client reserves the right to float or reassign Clinical Contract Assigned Employees to other areas of practice within their clinical competence to fulfill the guaranteed hours and within ten (10) miles of their originally assigned facility.

- b) Per Diem Assigned Employees. Client will provide Per Diem Assigned Employees a minimum of four (4) hour per shift. Client reserves the right to float or reassign Clinical Per Diem Assigned Employees to other areas of practice within their clinical competence to fulfill the guaranteed hours. If Client has a late request – meaning a request within two (2) hours prior to the start of a shift – Client will be billed for the entire shift, regardless of whether or not the Assigned Employee works the entire shift due to late arrival.

N. CANCELLATIONS.

a) Clinical Contract Assigned Employees.

- i. Without cause, after an assignment's commencement, Client may cancel a Clinical Contract Assigned Employee assignment with fourteen (14) days advance written notice.
- ii. Client may cancel a Clinical Contract Assigned Employee's assignment, without penalty, if the cancellation notice is provided fifteen (15) days or greater prior to the assignment start date. Client may cancel a Clinical Contract Assigned Employee's assignment with a two (2) week cancellation penalty, consisting of the minimum guaranteed hours for two (2) weeks, if the notice of cancellation is provided within fourteen (14) days prior to the assignment start date.

- b) Per Diem Assigned Employees. Client may cancel its request for Per Diem Assigned Employees provided HAN is notified at least two (2) hours prior to the start of the shift. Should Client cancel a shift with less than two (2) hours' notice, Client shall be charged two (2) hours at the Assigned Employee's Hourly Base Bill Rate. If the Assigned Employee cannot be contacted by HAN due to Client's late cancel, and the Assigned Employee reports to the scheduled shift, Client will either: (i) pay HAN for four (4) hours at the Assigned Employee's Hourly Base Bill Rate; or (ii) utilize the Assigned Employee for a minimum of four (4) hours.

O. ASSIGNMENT DURATION; REIMBURSEMENTS; TRAVEL COSTS. Travel contract assignments of 13 weeks or more include housing costs for all Travel Assigned Employees placed with Client. In the event an assignment is confirmed for a period of less than thirteen (13) weeks, then the Client will be invoiced the Travel Assigned Employee rate as stated above plus an additional \$5.00 per hour. Client will reimburse HAN for all mileage for Assigned Employees while traveling between Client's facilities in accordance with IRS Standards.

P. ALLOCATION AND DEDUCTION OF TRAVEL EXPENSES. HAN's bill rates and Client's payment of those rates necessarily incorporate and contemplate that a portion of those rates is to reimburse HAN for all lodging, meals and incidental expenses incurred by Travel Assigned Employees ("travel expenses"). Client acknowledges and agrees that a portion of its payment for the hourly billing rates shall reimburse HAN for all travel expenses paid by HAN to any of its Travel Assigned Employees providing services to Client hereunder. HAN may deduct such allocable portion of the payment as travel expenses subject to any applicable federal limitations.

Q. CONVERSION FEES.

- a) HAN shall waive its right or claim to any placement fee, conversion fee, or liquidated damages in the event Client hires directly onto its own payroll or engages as an independent contractor any Assigned Employee ninety (90) days after any assignment of the Assigned Employee to Client from HAN, provided that Client has paid HAN all invoiced amounts for such Assigned Employee.
- b) In the event that Client hires directly onto its own payroll or engages as an independent contractor (including through another agency) any Assigned Employee within ninety (90) days after any assignment of the Assigned Employee to Client from HAN, Client shall pay HAN a conversion fee of 25% of Assigned Employee's new annualized compensation.
- c) In the event Client hires directly onto its own payroll or engages as an independent contractor (including through another agency) any candidate presented by HAN to Client to be an Assigned Employee but not placed on assignment ("Candidate") within ninety (90) days of the date in which the Candidate was presented by HAN to Client, Client shall pay HAN a conversion fee of 25% of the Candidate's new annualized compensation.

R. PERMANENT PLACEMENT SERVICES. Client may present HAN with requests for permanent placement services as requested from time to time. Client's acceptance of candidate referrals from HAN, interviewing of candidates referred by HAN, or employment of any such candidates shall constitute Client's acceptance of the terms and conditions herein. Client agrees to pay a placement fee to HAN in the amount of 25% ("Fee") of the candidate's estimated total first year's compensation, including estimated commissions and bonuses, and any signing bonus. Such Fee is not subject to reduction even if the candidate's employment terminates. Client will be obligated to pay such Fee whenever 1) a candidate referred to Client by HAN is hired, directly or indirectly, for any position, as an employee, consultant, or independent contractor, by Client, its affiliates, parents, or subsidiaries, or 2) a candidate referred to Client by HAN is referred by Client to another employer or recruiting firm and the candidate is hired, directly or indirectly, for any position, as an employee, consultant, or independent contractor, by such employer or through such recruiting firm. For the purpose of 1) and 2) above, the word "referred" means any manner or means of communication of a candidate's identity. In addition to any fees, Client agrees to pay all reasonable Client preapproved expenses (provided such prior approval is in writing) incurred by HAN related to the performance of permanent placement. If HAN refers a candidate for permanent placement to Client with whom Client has already interviewed or scheduled an interview, and Client so advises HAN within two (2) business days following the referral, Client will not owe HAN a fee in the event Client hires the candidate. Client shall provide HAN with documentation at HAN's request sufficient to establish that the interview has been held or scheduled. In the event the employment of a candidate referred to Client under this permanent placement provision lasts less than thirty (30) calendar days, and provided that the Fee and all expenses relating to such referral have been paid within thirty (30) days of the candidate's employment start date, HAN will make commercially reasonable efforts to refer a replacement candidate for the same position at no additional charge to Client. HAN's obligation is limited to attempting to find a replacement candidate. No refund will be made if Client hires a replacement from any source, or if Client is no longer actively seeking to fill the position. HAN will conduct background checks on candidates as requested by Client. Requests must be in writing and must specify the scope of the background check requested. All background checks will be conducted at Client's expense. Sections 1, 2, 11, subsections A, B, and D through Q of Exhibit A, and Exhibit B of this Agreement shall not apply to permanent placement services.

EXHIBIT B

Pre-Employment Screening. HAN shall conduct the following pre-employment screening at a minimum for each Assigned Employee, which shall be included in the Bill Rate:

- Social Security Number Verification
- National Criminal Record File
- Felony including Misdemeanor when Statewide not available) 7- year residence history based on given address(es) and those developed from SSNV – One name included
- Drug Screen
- Two (2) professional reference checks
- Interview to assess candidate meets skills and experience required from the job description provided
- Education of the Assigned Employee on the Core Mandatories, to include HIPAA and OSHA compliance training
- With respect to Clinical Assigned Employees, appropriate competency testing, health requirements and license and certification verification



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

04/26/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Crystal Romero-Sherman
Century Advisory Services, Inc.	PHONE (A/C, No, Ext): (561) 409-2420
1900 NW Corporate Blvd.	FAX (A/C, No): (561) 367-3126
Suite 400E	E-MAIL ADDRESS: crystal.romero-sherman@centuryra.com
Boca Raton FL 33431	INSURER(S) AFFORDING COVERAGE
	INSURER A: Wesco Insurance Company
	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:
	INSURER F:

COVERAGES: CERTIFICATE NUMBER: CL2341905989 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE \$
	CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/>						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
							MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$
	POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/>						PRODUCTS - COMP/OP AGG \$
	OTHER:						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	ANY AUTO <input type="checkbox"/>						BODILY INJURY (Per person) \$
	OWNED AUTOS ONLY <input type="checkbox"/>						BODILY INJURY (Per accident) \$
	HIRED AUTOS ONLY <input type="checkbox"/>						PROPERTY DAMAGE (Per accident) \$
	SCHEDULED AUTOS <input type="checkbox"/>						\$
	NON-OWNED AUTOS ONLY <input type="checkbox"/>						
	UMBRELLA LIAB <input type="checkbox"/>						EACH OCCURRENCE \$
	EXCESS LIAB <input type="checkbox"/>						AGGREGATE \$
	DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>						\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WWC3649336	05/01/2023	05/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER \$ 1,000,000
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

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CERTIFICATE HOLDER	CANCELLATION
County of Ector Law Enforcement 2500 US Hwy 385 Odessa TX 79764	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE



CERTIFICATE OF LIABILITY INSURANCE

4/1/2025

DATE (MM/DD/YYYY)

4/26/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000 kcasu@lockton.com	CONTACT NAME:	
	PHONE (A/C, No. Ext.):	
INSURED 1490318 HEALTH ADVOCATES NETWORK, INC 1875 NW CORPORATE BLVD., SUITE 120 BOCA RATON FL 33431	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Allied World Assurance Company (U.S.) Inc.	
	INSURER B: Everest National Insurance Company	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		

COVERAGES **CERTIFICATE NUMBER:** 20531013 **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	N	0314-2298	4/1/2024	4/1/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
B	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	N	91ML002332-241	4/1/2024	4/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DEC <input type="checkbox"/> RETENTION \$ <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE	N	N	0314-2299	4/1/2024	4/1/2025	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$ XXXXXXXX
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	NOT APPLICABLE			PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ XXXXXXXX E.L. DISEASE - EA EMPLOYEE \$ XXXXXXXX E.L. DISEASE - POLICY LIMIT \$ XXXXXXXX
A	PROFESSIONAL LIABILITY	Y	N	0314-2298	4/1/2024	4/1/2025	\$1,000,000 PER CLAIM; \$3,000,000 AGGREGATE

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
County of Ector Law Enforcement is an additional insured with respect to the general, auto, and professional liability coverages, if required by written contract, subject to the terms and conditions of the policy.

CERTIFICATE HOLDER 20531013 County of Ector Law Enforcement 2500 S US HWY 385 Odessa, TX 79764	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

04/26/2024

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PRODUCER Century Advisory Services, Inc. 1900 NW Corporate Blvd. Suite 400E Boca Raton FL 33431	CONTACT NAME: Lani Ross PHONE (A/C, No, Ext): (561) 409-2437 FAX (A/C, No): (561) 367-3126 E-MAIL ADDRESS: lani.ross@centuryra.com
INSURED Health Advocates Network, Inc. 1875 NW Corporate Blvd Suite 120 Boca Raton FL 33431	INSURER(S) AFFORDING COVERAGE INSURER A: Wesco Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES**CERTIFICATE NUMBER:** CL2442608198**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN/AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>						EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	VWC3716586	05/01/2024	05/01/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

County of Ector Law Enforcement 2500 US Hwy 385 Odessa TX 79764	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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STATE OF TEXAS

COUNTY OF ECTOR

AN ORDER OF THE COMMISSIONERS COURT FOR ECTOR COUNTY TEXAS

WHEREAS, Ector County has a current need to obtain and engage the professional and personal services of KDC Associates to perform and conduct architectural services for Americans with Disabilities Act (ADA) Compliance for Kellus Turner Park.

WHEREAS, the Court finds that obtaining the above said services will be of a general benefit to Ector County, to the residents of Ector County and to the public;

THEREFORE, this Court hereby grants an exemption from the requirements of the County Purchasing Act to obtain and engage the professional and personal services of KDC Associates to help bring Kellus Turner Park into ADA Compliance for Ector County, pursuant to and in accordance with the Texas Local Government Code § 262.024(a)(4).

IT IS SO ORDERED

Signed and ordered this 23rd day of July 2024.

COUNTY JUDGE

COMMISSIONER, PCT 1

COMMISSIONER, PCT 2

COMMISSIONER, PCT 3

COMMISSIONER, PCT 4

ATTEST:

COUNTY CLERK

PROFESSIONAL SERVICES AGREEMENT

**KDC ASSOCIATES
4400 N. Big Spring, Suite 203
Midland, Texas 79705
432.686.8001**

hereafter referred to as the CONSULTANT,

and

**ECTOR COUNTY, TEXAS
300 N. Grant Avenue
Odessa, Texas 79761**

hereafter referred to as the OWNER.

For the following PROJECT:

The CONSULTANT shall provide professional services for the OWNER on the project scope, the extent of which is generally described as the PARKS MASTER PLAN FOR ECTOR COUNTY. The term "CONSULTANT" shall be used in this attachment to define the Prime Landscape Architect, consultant or any of the consultants employed by him for the development of this project.

SCOPE OF SERVICES

- A. The CONSULTANT shall provide professional consulting services, as later described, for the scope items as listed:
1. Research and define the OWNER'S socio-economic data, current and projected population figures, growth or non-growth patterns, and the County's role in providing park and recreation opportunities.
 2. Identify and/or establish the OWNER'S park and recreation service goals and follow up with specific objectives for each goal, including the recommended time frame for implementation. Among these objectives may be:
 - a. Identify what park, recreation and opens space areas and facilities are currently within the OWNER'S system.
 - b. Improve existing park sites.
 - c. Improve the Odessa Meteor Crater site. Develop potential methods to turn the site into a local, regional, and national point-of-interest.
 - d. Establish accessibility guidelines for current and future parks.
 - e. Provide walking, biking, and hiking trails.
 - f. Promote education and public art.
 - g. Provide field guidelines for youth and adult outdoor recreation facilities.
 - h. Provide guidelines and potential locations for outdoor public space venues and events.

- i. Identify potential nature areas to support wildlife and connect residents to nature and the outdoors.
- j. Develop and conduct surveys and/or public meetings for stakeholder input.
- k. Determine local facility standards as they relate to current Texas Parks and Wildlife (TPWD) and National Recreation and Park Administration (NRPA) guidelines.
- l. Develop a prioritization list of needs, including recommended timelines for implementation.
- m. Identify the needs of the OWNER as it relates to potential future open space acquisition and/or preservation.
- n. Identify currently known potential funding resources on the local, state, and federal levels.
- o. Include all available mapping, surveys, charts, graphics and photographs that would be suitable for aiding in the development, understanding, and methodology of the master plan.
- p. Completed master plan should be compatible with TPWD guidelines suitable for the pursuit of potential state funding.

B. The OWNER shall provide the CONSULTANT with:

- 1. Provide available digital resources such as:
 - 1. Pertinent mapping and/or aerial photographs.
 - 2. Demographics and resources for potential public survey information.
 - 3. Any available previous plans of the Meteor Crater and other established park sites within the County.
 - 4. A single point-of-contact for day-to-day communications.
 - 5. If available, access to any previous grant applications, studies, or committee notes regarding the perceived needs of the County.
 - 6. Potential funding resources/capabilities of the County. This item will be used to define realistic possibilities for current and future site development.
 - 7. Any planned or discussed possibilities for future incorporation of portions of the County into the City of Odessa.
 - 8. Potential locations for public meetings to discuss the project, and the marketing/public outreach necessary to promote the meetings.

PROCEDURE

The CONSULTANT shall work closely with the OWNER, and the services shall be conducted on a step-by-step basis as provided.

DELIVERABLES

This AGREEMENT covers deliverable documents to include the following:

- 1. Three (3) bound hard copy document including the completed master plan and all associated attachments, anticipated expenditures, and reports. Document will be provided in either a spiral-bound format or in a three-hole binder format at the discretion of the OWNER.
- 2. One (1) digital formatted copy of the completed master plan, including all associated attachments and reports.

3. Up to nine (9) 24" x 36" architectural renderings of perspectives and/or site plans which show the possible design improvements to the existing parks, including the meteor crater. These renderings shall be mounted, laminated, and of a quality suitable for public information, marketing, or fund-raising opportunities.
4. Copies of all public survey data.
5. Matching digital copies of all architectural renderings.
6. All necessary inclusions for applications to the Texas Parks and Wildlife Department for grants or funding opportunities.

TIME FRAMES

While efforts will be taken to move forward with the master planning process as expediently as feasible, certain elements of the planning process will fall outside of the control of the CONSULTANT. This could include the planning of public meetings or hearings, meetings with key stakeholders, or similar delays in the execution of providing the necessary feedback for the development of the plan. Outside of those elements, the proposed timeframe for the project would be similar to:

- **6.15.2024 to 7.15.2024**
 - Formal execution of the professional services agreement
- **7.1.2024 to 8.1.2024**
 - Delivery of existing information in possession of the OWNER to the CONSULTANT
- **7.15.2024 to 12.31.2024**
 - Gather demographics and socio-economic data
- **9.1.2024 to 10.1.2024**
 - Develop plan with ECISD and other stakeholders for public meetings.
- **10.1.2024 to 1.31.2024**
 - Release and receive public survey information
- **10.1.2024 to 12.1.2024**
 - Conduct public meetings
- **1.1.2025 to 3.1.2025**
 - Gather, analyze, refine, and graphically develop data
- **3.15.2025 to 4.15.2025**
 - Conduct meetings with OWNER regarding the outcome of planning process
- **4.15.2025 to 5.15.2025**
 - Refine and finalize master plan to comply with TPWD standards
- **5.15.2025**
 - Turn in approved and completed master plan to OWNER

FEES AND TERMS

Based upon the project scope, professional fees for this project shall be paid to the CONSULTANT at a rate of SIXTY-ONE THOUSAND DOLLARS (\$61,000.00). This fee shall be itemized as follows:

Gather Demographic and Socio-Economic Data	\$16,000.00
Develop Site Plans, Standards, and Renderings for Facility Improvement	\$18,000.00
Develop, Release, and Receive Public Survey Information	\$15,000.00
Conduct Public Meetings	\$3,000.00

Gather, Analyze, and Graphically Develop Data	\$6,500.00
Development of Prioritization Schedule	\$2,500.00
Final Meeting(s) with OWNER on General Discussion Items	
Refinement and Presentation of Final Document	
Total	\$61,000.00

Upon acceptance of the Proposal by all required parties, the CONSULTANT shall submit monthly invoices for all or portions of the above listed services to the OWNER. Payments shall be sent to:

KDC Associates
4400 N. Big Spring, Suite 203
Midland, Texas 79705

RIGHT TO SUSPEND SERVICES

The CONSULTANT shall have the right to suspend services on this project if the CONSULTANT has unpaid invoices over sixty (60) days past due from date of invoice. The OWNER reserves the right to suspend payment if the CONSULTANT is not proceeding with services that will contribute to the timely or proper completion of this project.

OWNERSHIP OF DOCUMENTS

Original drawings and/or documents, are the property of the CONSULTANT. The drawings and/or documents are not to be used on other projects except by written agreement of the CONSULTANT.

EXTRA SERVICES

When extra services, outside of those defined in this AGREEMENT, are required, they shall be billed at an hourly rate associated with the following fee scale:

Firm Principal	\$250.00/hr.
Landscape Architect	\$150.00/hr.
Licensed Irrigator	\$110.00/hr.
Cad Draftsman	\$95.00/hr.
Administrative and Support Staff	\$55.00/hr.

The CONSULTANT shall submit for the OWNER's approval, an estimate of extra services fees prior to commencement of the service.

REIMBURSABLE EXPENSES

The following items shall be known as "reimbursable expenses" outside of standard compensation for professional services within this AGREEMENT:

1. If authorized in advance by the OWNER, direct expense of special consultant(s) for other than basic services noted in the Scope of Services shall be reimbursable expenses at the CONSULTANT'S direct cost plus an applied multiplier of 1.15 for the billing rate.
2. If authorized in advance by the OWNER, the production and/or reproduction of presentation models, mock-ups, and detailed artistic renderings beyond the items listed in this project scope.
3. All fees associated with ADA and/or TAS requirements for accessibility as required by the State of Texas.
4. This AGREEMENT covers all necessary trips to the project sites to perform duties listed in the scope of services. Other trips authorized by the OWNER shall be billed at a separate rate under reimbursable expenses. When such trips are required, the compensation for meals and lodging shall be \$35.00 per diem for meals and \$185.00 per night for lodging. There shall be no reimbursement for alcoholic beverages.
5. The reproduction of the final master plan, including printing and binding, shall be considered reimbursable at the CONSULTANT'S direct cost.
6. Mileage of CONSULTANT within the Permian Basin area, unauthorized out-of-town travel, local and long-distance communication, facsimile services, photocopying services, and expenses of similar nature shall not be considered reimbursable expenses.
7. All postage or fees associated with the distribution of public surveys. This may include the development of QR codes and associated web site development for such surveys.

The following services are not covered under the standard Scope of Services of this project. If any of the following services are requested by the OWNER in writing, additional compensation will be allowed as hereinafter provided:

1. Model Construction
2. Professional Still Photography and Photographic Reproduction when Requested
3. Computer Generated Video
4. Artistic Renderings beyond the Scope of Services
5. Storm Water Pollution Prevention Plan Development (SWPPP)
6. Engineering Services
7. Archeological Studies

LAW

All agreements shall be interpreted and enforced according to the laws of the State of Texas.

TERMINATION

It is understood that these services may be terminated upon ten (10) days written notice for good reason by either party. In this event, the CONSULTANT shall be compensated for all work performed prior to date of termination at the rates set forth above. If termination of contract occurs, under no circumstances will the CONSULTANT be held responsible for any work occurring prior to termination. All plans and documents shall be returned to the CONSULTANT

without reproduction, and all work based on the intellectual property of the CONSULTANT shall be abandoned.

ACCEPTANCE

Accepted by and between responsible parties representing the following:

CONSULTANT - KDC Associates

Date:

OWNER

Date:

END OF PROFESSIONAL SERVICE AGREEMENT

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY DOCUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DISTRIBUTION EASEMENT AND RIGHT OF WAY

THE STATE OF TEXAS §
 § KNOW ALL BY THESE PRESENTS:
COUNTY OF ECTOR §

The undersigned "**Grantor**" whether one or more, for and in consideration of Ten and No/100 Dollars (\$10.00) and other valuable consideration paid by **ATMOS ENERGY CORPORATION**, a Texas and Virginia corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, hereinafter referred to collectively as "**Grantee**", has granted, sold and conveyed and by these presents does grant, sell and convey unto said Grantee, its successors and assigns, a right of way and easement for the purpose of laying, constructing, operating, maintaining, inspecting, repairing, replacing, changing the size of, relocating and changing the route or routes of, abandoning in place and removing at will, in whole or in part, one or more pipelines for the transportation of natural gas (including renewable/biogas, and together with water, cleansers, and other products necessary for the testing, inspection, maintenance, and operation of the pipeline(s)), and supporting structures, surface mounted equipment, conduits, cathodic protection equipment, aerial markers, and all necessary or desirable appurtenances over, under, through, across, and upon Grantor's land described on Exhibit "A" attached hereto and made a part hereof for all purposes.

Grantee shall also be entitled to use temporary workspace as described in Exhibit "A" (the "**Temporary Workspace**") to carry out the initial construction of the facilities, which rights shall include, but not be limited to, boring activities, clearing, leveling, temporary storage, and staging equipment and materials. Grantee's right to utilize this Temporary Workspace will terminate and cease on the earlier of: (i) the date on which the initial construction of Grantee's facilities have been completed and the same are placed into service, or (ii) twenty-four (24) months following the execution of this agreement.

This grant includes the right of ingress and egress along and upon said easement and right-of-way and over and across Grantor's adjacent and adjoining properties. Grantor shall not construct, and Grantee shall have the right to prevent and/or remove, any improvements, structures, buildings, reservoirs, or obstructions within the easement area. Further, Grantee has the right to trim, cut down, or eliminate trees or shrubbery, and to prevent or remove possible present or future hazards and/or activities, any of which, in the sole judgment of the Grantee may presently or in the future endanger or interfere with the efficient, safe, and/or convenient exercise of Grantee's rights hereunder within the easement area.

The aforesaid consideration includes any and all damages that may be sustained by the original construction of said lines. This instrument shall not be construed as a written agreement between Grantor and Grantee for purposes of Section 756.122 of the Texas Health and Safety Code (or any successor statute).

TO HAVE AND TO HOLD the above described easement and right-of-way unto the said Grantee, its successors and assigns, until all of such pipelines shall be abandoned; and Grantor hereby binds itself, its successors, legal representative and assigns, to warrant and forever defend the above described easement and right-of-way unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

(Signature Page to Follow)

EXECUTED this _____ day of _____, 20__.

GRANTOR:

(SIGNATURE)

(NAME)

(ADDRESS)

STATE OF TEXAS

§
§
§

COUNTY OF ECTOR

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this the _____ day of _____, 20__.

Notary Public in and for the State of Texas
My Commission Expires: _____
Print Name: _____

EXHIBIT "A"

SECTION 39, BLOCK 42, T-1-S,
T. & P. RR. CO. SURVEY, A-103
ECTOR COUNTY, TEXAS
EASEMENT PLAT



TOTAL EASEMENT AREA: 33,812 SQUARE FEET OR 0.78 ACRES
TOTAL TEMPORARY WORKSPACE AREA: 21,785 SQUARE FEET OR 0.50 ACRES

SCALE 1" = 1500'

SECTION 33
T. & P. RR. CO.
A-100

SECTION 34
T. & P. RR. CO.
A-630

SECTION 35
T. & P. RR. CO.
A-101

SECTION 40
T. & P. RR. CO.
A-624

SECTION 38
T. & P. RR. CO.
A-642

SECTION 45
T. & P. RR. CO.
A-106

SECTION 46
T. & P. RR. CO.
A-625

SECTION 47
T. & P. RR. CO.
A-107

LINE TABLE A

LINE	BEARING	DISTANCE
A1	N 76°20'42" E	28.69
A2	S 59°18'58" E	195.71
A3	N 76°29'21" E	492.71
A4	S 13°50'39" E	485.33
A5	S 59°01'11" E	514.89
A6	S 21°33'57" W	5.79
A7	S 75°41'40" W	15.55
A8	S 13°19'33" E	4.80
A9	N 59°03'11" W	516.37
A10	N 13°50'33" W	474.65
A11	S 76°09'21" W	478.93
A12	N 59°18'58" W	224.42

LINE TABLE B

LINE	BEARING	DISTANCE
B1	S 59°18'58" E	50.27
B2	N 76°09'21" E	502.55
B3	S 13°50'39" E	498.01
B4	S 59°01'11" E	41.08
B5	S 30°58'49" W	20.00
B6	N 59°01'11" W	50.00
B7	N 13°50'39" W	485.33
B8	S 75°09'21" W	490.74
B9	N 59°18'58" W	49.00
B10	N 13°27'01" W	27.87

LEGEND

- SECTION LINE
- TRACT BORDER
- SURVEYED BASELINE A
- SURVEYED BASELINE B
- ROAD WAY
- FENCE LINE
- EXISTING PIPELINE
- POINT OF INTERSECTION
- FENCE CORNER FOUND
- IRON ROD FOUND



Jeffrey N. Lueders, R.P.L.S. No. 6512
SURVEYED ON THE GROUND: June 21, 2024
Field note description of even date accompanies this plat.

SCHLEMEYER NORTH
3934

REVISION:

NOTES

1. ORIGINAL DOCUMENT SIZE: 8.5" x 11"
2. ALL BEARINGS, DISTANCES, AND COORDINATE VALUES CONTAINED HEREIN ARE GRID BASED UPON THE TEXAS COORDINATE SYSTEM OF 1983 CENTRAL ZONE U.S. SURVEY FEET.
3. CERTIFICATION IS MADE ONLY TO THE LOCATION OF THIS EASEMENT IN RELATION TO THE EVIDENCE FOUND DURING A FIELD SURVEY MADE ON THE GROUND UNDER MY SUPERVISION AND USING DOCUMENTATION PROVIDED BY CONTINENTAL RESOURCES INC. ONLY UTILITIES EASEMENTS THAT WERE VISIBLE ON THE DATE OF THIS SURVEY WITHIN ADJACENT THIS EASEMENT HAVE BEEN LOCATED AS SHOWN HEREON OR WHICH HAVE KNOWN LOCUS. THIS CERTIFICATION IS LIMITED TO THOSE PERSONS OR ENTITIES SHOWN ON THE FACE OF THIS PLAT AND IS NOT WITHIN TRANSFERABLE, AND MADE FOR THIS TRANSACTION ONLY.
4. ADDITIONAL INFORMATION SHOWN FOR INFORMATIONAL PURPOSES ONLY.
5. B.O.L. > P.O.B. = BEGINNING OF LINE; POINT OF BEGINNING
6. E.O.L. > P.O.E. = END OF LINE; POINT OF EXIT

DATE: 06/27/2024

FILE: EP_SCHLEMEYER NORTH_3934

DRAWN BY: DMG

SHEET 1 OF 3

EXHIBIT "A"
WARD COUNTY, TEXAS
0.50 ACRE TEMPORARY WORKSPACE DESCRIPTION

June 27, 2024
Sheet 3 of 3

A 0.50 acre temporary workspace as shown on sheet 1 of 3 of this Exhibit "A", being situated in Section 39, Block 42, Township 1 South, of the T. & P. RR. CO. Survey, Abstract No. 103, Ector County, Texas, out of a called 160 acre tract of land, described in deed to Ector County, recorded in Volume 82, Page 183, Official Public Records, Ector County, Texas (O.P.R.E.C.T.), said 0.50 acre temporary workspace being more particularly described by metes and bounds description as follows:

BEGINNING (B.O.L., X=1658529.41, Y=10671602.41) at a point within said 160 acre tract, from which a two-way fence corner post found on the North line of said 160 acre tract and being the Southwest corner of the El Rancho Subdivision, record in Volume 3, Page 92, Plat Records, Ector County, Texas (P.R.E.C.T), bears: North 72°39'04" West, a distance of 145.05 feet;

THENCE South 59°18'56" East, a distance of 60.22 feet;
THENCE North 76°09'21" East, a distance of 502.55 feet, from which an iron rod with cap marked "LCA Odessa, TX" found for the Northeast corner of said 160 acre tract bears: North 73°11'14" East, a distance of 1,948.39 feet;

THENCE South 13°50'39" East, a distance of 498.01 feet;
THENCE South 59°01'11" East, a distance of 41.68 feet;
THENCE South 30°58'49" West, a distance of 20.00 feet;
THENCE North 59°01'11" West, a distance of 50.00 feet;
THENCE North 13°50'39" West, a distance of 486.33 feet;
THENCE South 76°09'21" West, a distance of 490.74 feet;
THENCE North 59°18'56" West, a distance of 49.00 feet;

THENCE North 13°27'03" West, a distance of 27.87 feet to the POINT OF BEGINNING (P.O.B.) and containing an area of 21,785 square feet or 0.50 acres.

All bearings, distances, and coordinates contained herein are grid, based upon the Texas Coordinate System of 1983 (commonly, Texas State Plane Coordinate System), Central Zone, in U.S. Survey Feet.

Plat of even date accompanies this field note description.

ODESSA-SCHLEMEYER AIRPORT

GROUND LEASE AGREEMENT

This agreement is entered into between the County of Ector, Texas, acting through Odessa-Schlemeyer Airport, ("OSA"), and Wor-Pro Investments, LLC ("Lessee").

RECITALS

1. The County of Ector is established under the laws of the State of Texas.
2. The County of Ector owns and operates through the Odessa-Schlemeyer Airport, land and certain aviation facilities known as "Odessa-Schlemeyer Airport."
3. OSA desires to lease certain lands at Odessa Schlemeyer Airport as hereinafter defined, and Lessee desires to lease from OSA for a term of years the hereinafter defined premises specifically to hangar and store aircraft.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained to be kept and performed by the parties hereto and upon the provisions and conditions hereinafter set forth, OSA and Lessee do hereby agree as follows:

ARTICLE I

Definitions

Section 1.1 Definitions. Throughout this Agreement, the following words shall have the following meanings, respectively, unless the context clearly shall indicate some other meaning:

- a. **Agreement** means this lease Agreement between OSA and Lessee;
- b. **Airport** means Odessa-Schlemeyer Airport
- c. **Airport Improvements** means those improvements identified on an approved Airport Layout Plan;
- d. **EPA** means the United States Environmental Protection Agency and all federal, state or local agency, or governmental entity, succeeding to or being delegated with its jurisdiction, functions or responsibilities;
- e. **FAA** means the Federal Aviation Administration of the United States, or any federal agency succeeding to its jurisdiction or function;
- f. **FAR** means Federal Aviation Regulations and shall include, but not be limited to, all regulations, policies, statements and directives promulgated or issued by the FAA;
- g. **Governmental Requirements** means all federal, state and local laws, ordinances, rules regulation, policies and procedures, security plans, standards, and rulings, including, but not limited to, all additions and amendments now in effect or hereinafter enacted, as may be imposed by the FAA, TSA or any other governmental entity succeeding to the jurisdiction, functions, or responsibilities of either, Odessa-Schlemeyer Airport; the County of Ector; the State of Texas, or other governmental entities to Lessee's use of the Airport and operation/utilization of the Leased Premises and improvements thereon.
- h. **Leased Premises** means the land area described and illustrated on Exhibit "A".
- i. **Leasehold Improvement** means all improvements made by the Lessee (s) to the Leased Premises.
- j. **Term** means the period of time that this Agreement shall be in effect, as set forth in Sections 2.1 and 2.2;
- k. **TSA** means the Transportation Security Administration of the United States, or any federal agency succeeding to its jurisdiction or function.

ARTICLE II

Term

Section 2.1 Term of Agreement. The Term of this Agreement shall be for forty (40) years, commencing on April 1st 2024, and expiring on June 30, 2035, unless otherwise terminated or cancelled as provided herein.

Section 2.2 Survival of Obligations. All obligations under this Agreement which have been incurred by Lessee, or with respect to which Lessee shall be in default, shall survive any termination or cancellation of this Agreement, unless waived or released in writing by OSA.

Section 2.3 Option to Extend. During the period commencing one (1) year prior to the expiration date of this Agreement and ending one hundred twenty (120) days prior to the expiration date of this Agreement ("first option period"), Lessee shall have the option to extend the Term of this Agreement, for one (1) extended period of five (5) years, and during the period commencing one (1) year prior to the expiration date of the first extended period and ending one hundred twenty (120) days prior to the expiration date of the first extended period ("second option period") Lessee again shall have the option to extend the term of this Agreement for one (1) additional extended period of five (5) years, both options to extend being subject to the following terms and conditions:

- a. Lessee shall not be in default of this Agreement;
- b. Lessee shall deliver timely written notice of its exercise of the option to OSA;
- c. All terms and conditions including rental rates, fees and charges then applicable to this Agreement shall remain in full force during the extended term period.

Section 2.4 Surrender of Possession. Except as otherwise expressly provided in this Agreement, at the expiration or sooner termination of the Agreement, or any extension hereof Lessee agrees to surrender possession of Leased Premises peacefully and promptly to OSA subject to the terms of Article VI Section 6.3 (b).

Section 2.5 Holding Over. If Lessee shall hold over after the termination of this Agreement, OSA, at its sole discretion, may allow Lessee to remain on the Leased Premises on a month-to-month basis as a tenant at will. During such tenancy, Lessee shall pay to OSA rentals, fees and charges at a rate set by OSA at the time the election to hold over is exercised by Lessee. Lessee shall be bound by all of the remaining provisions of this Agreement during any hold over tenancy.

Section 2.6 Lease Expiration. At the end of the Term, Lessee shall immediately and peaceably vacate the leased premises. Any and all improvements constructed by Lessee on the Leased Premises, including buildings, hangars, or other structures, shall become the property of OSA, unless removed in accordance with Section 6.3 herein. Lessee agrees to execute any and all documents necessary to convey title to any such improvements to OSA at said time.

ARTICLE III

Rentals, Fees, and Charges

Section 3.1 Initial Rental Rate. From the commencement date of this Agreement, Lessee shall pay, in advance to OSA, the annual base ground rental rate of Eight and a Half Cents (\$0.21) per square foot. The Leased Premises contain 11,000 square feet for an initial annual rental of \$ 2,400.00. Lessee shall pay a pro rata amount for any possession of the Leased Premises for less than one (1) year. The first rental payment shall be made by Lessee on or before the commencement date hereof and all subsequent annual rentals shall be paid in advance on or before the 1st day of February of each year of the Term.

Section 3.2 Subsequent Rental Rate. Effective on each February pt during the Term of this agreement, the base ground rental rate shall be increased based upon the percentage increase in the National Consumer Price Index ("CPI") as published by the United States Department of Labor, Bureau of Labor Statistics, or successor agency or entity. The annual base ground rental rate shall be adjusted to the nearest penny (\$0.01).

Section 3.3 Rate Adjustment-Limitation. In any event, the rental rate for any succeeding rental period shall not be less than the rental rate established for the preceding rental period nor shall the increase be greater than ten percent (10%) in any one year.

Section 3.4 License Contingent Upon Payment. The grant of the rights, licenses, facilities, services and privileges to Lessee under this Agreement, in each case, shall be subject to the full and timely payment of the rentals, fees and charges required to be paid by Lessee hereunder.

Section 3.5 Landlord's Lien. OSA shall have the first lien, paramount to all other, on every right and interest of Lessee in this Agreement, on all improvements, equipment and fixtures to the Leased Premises. The lien is granted for the purpose of securing the payment of rentals, fees, charges, taxes, assessments, liens, penalties and damages herein covenanted to be paid by Lessee, and for the purpose of securing the performance, all and singular, of the covenants, conditions and obligations of this Agreement to be performed and observed by Lessee. This lien shall be in addition to all rights of a landlord given under the laws of the State of Texas. Aircraft stored on the Leased Premises are specifically excluded from this lien.

Section 3.6 Place of Payments. All sums payable by Lessee hereunder shall be delivered to :

Ector County Auditor's Office
1010 E. 8th St. Rm.# 520
Odessa, Tx 79761

Section 3.7 Delinquencies. In addition to any remedy available to it hereunder, OSA may impose as additional rent a delinquency charge on all overdue payments, at the rate of eighteen percent (18%) per annum or the then maximum rate allowed by law, if greater.

Section 3.8 Utility Service. Lessee, at its own expense, shall be responsible for the installation, relocation, modification and maintenance of all utility services on the Leased Premises. Lessee shall pay as the same becomes due, all utilities and other charges incurred in the operations, maintenance, use, occupancy, repair and upkeep of the Leased Premises and the improvements located thereon.

ARTICLE IV

Lessor's Grants: Reservations

Section 4.1 Lease. OSA hereby offers and leases to Lessee, and Lessee hereby accepts and leases from OSA, the Leased Premises of this Agreement, subject to the provisions set forth herein. Lessee accepts the Leased Premises in the condition existing at the commencement of this Agreement.

Section 4.2 Aviation Easement. OSA also reserves for itself, and the County and its licensees, an aviation easement in, over and across the air space above the Lease Premises and the unrestricted right to subject the Leased Premises to such Airport noise and vibration as may result from the flight of aircraft, warm up of engines, testing of engines or motors and other aviation related activities. OSA reserves the right to take such action as may be necessary to protect the aerial approaches of the Airport against obstruction in accordance with 14 C.F.R. Part 77 and other applicable standards or Governmental Requirements, together with the right to prevent Lessee or any other person from erecting or permitting to be erected any antenna, equipment, building or other facility or structure on the Airport (other than

any buildings to be constructed in compliance with the plans and specifications approved pursuant to Article VI hereof), which would conflict with such standards and Governmental Requirements.

Section 4.3 Reservation of Mineral Rights. OSA reserves all right, title and interest in and to all minerals in, on or under the Leased Premises. Lessee shall not engage in any mining or drilling activities in, on or under the Leased Premises during the Term of this agreement. "Minerals" as used herein shall mean all mineral substances and deposits whether solid, gaseous, or liquid.

Section 4.4 Quiet Enjoyment. Unless Lessee shall have defaulted in his obligations hereunder, he shall have quiet enjoyment of the Leased Premises. Provided, however, OSA makes no representations or warranties, either express or implied, as to the condition of the Leased Premises or that they will be suitable for Lessee's purposes and needs. OSA reserves the right to further develop, improve, rehabilitate, repair, reconstruct, alter and expand the Airport and all roadways, parking areas, terminal facilities, runways, taxiways and other aircraft operating areas as it may reasonably see fit, free from any and all liability to Lessee for damages of any nature whatsoever to Lessee occasioned during the making of improvements, repairs, alterations, reconstructions and additions to the Airport unless said liability arises from the solely negligent acts of OSA, its agents, and contractors.

Section 4.5 No Joint Venture or Partnership. This Agreement shall not be deemed or construed (a) to create any relationship of joint venture or partnership between OSA and Lessee; (b) to give OSA any interest in the business of Lessee; or (c) to grant to Lessee any powers as an agent or representative of OSA or the County, for any purpose or to bind OSA or the County.

Section 4.6 Termination of Agreement for Airport Purposes. Lessee agrees and understands that, by reason of the broad public interest in the efficient maintenance, operation and development of the Airport, OSA hereby expressly reserves the right to terminate this Agreement upon a determination by OSA that the Leased Premises are needed for permanent Airport construction, or development, or improvements. Such construction, development or improvements shall be for airport and or aviation purposes only.

In the event that permanent Airport construction, development of improvement necessitates termination of this Agreement and the acquisition of Lessee's Leasehold Improvements and interest in the Leased Premises, Lessee shall surrender the Leased Premises to OSA within ninety (90) days from receipt of OSA's written notice of its intent to terminate the Agreement and acquire Lessee's Leasehold Improvements and interest in the Leased Premises. OSA shall use its best efforts to provide Lessee with replacement premises at the Airport at the rates not to exceed those provided in this Agreement and under the same terms and conditions as this Agreement or the then current lease agreement in use by OSA subject to the same periods of duration and renewal options of this Agreement. Relocation benefits shall be paid by OSA to Lessee in the manner required by applicable law.

In consideration of Lessee's surrender of the Leased Premises, Lessee shall receive, as complete compensation for Lessee's interest in the Leased Premises and Lessee's improvements thereto, a sum of money equivalent to the fair value of any improvements of Lessee acquired by OSA. Determination of the fair value of the improvements shall be made by the appraisal methods known as the "market comparison approach". The appraisal method known as the "income approach" shall not be used in the valuation of the improvements, and Lessee hereby acknowledges that it shall not be entitled to damages due to loss of any type of income caused by the termination of this Agreement as described in this Section.

ARTICLE V

Use

Section 5.1 Use of Leased Premises. The use of the Leased Premises shall be for parking.

Section 5.3 Fueling Operations. Lessee shall not engage in or permit fueling operations on the leased premises, except as allowed under applicable Governmental Requirements.

Section 5.4 Safety and Security Plan Lessee, at its sole cost and expense, shall comply with any Airport safety and security plan established by OSA. Lessee shall require all invitees entering the Leased Premises to comply with any such plan and all applicable Governmental Requirements pertaining to security and safety.

ARTICLE VI

Improvements to the Premises

Section 6.1 Title to Existing Improvements. Title to all improvements (except improvements owned by OSA or County) currently located on the Leased Premises and Leasehold Improvements constructed by the Lessee during the Term of this Agreement and any extended period. Title to any such improvement shall vest with OSA upon expiration of this Agreement as set forth in Section 2.5 herein. Lessee shall not sell, convey, mortgage, gift or devise the Leasehold Improvements without OSA consent, of which reasonable consent shall not be withheld.

Section 6.2 Removal or Alteration of Airport Structures on Leased Premises. Lessee may not remove or otherwise alter any improvement to the Leased Premises owned by OSA or the County without Prior written consent of OSA. Lessee may request permission in writing to remove or alter such Improvements.

Section 6.3 Removal or Alteration of Improvements on Leased Premises. Any and all improvements constructed by Lessee on the leased Premises, including buildings, hangars, or other structures, shall become the property of OSA upon termination of the Agreement. Lessee shall not remove or alter any Leasehold Improvement without OSA consent. Removal of any building, hangar, or other structure constructed on the Leased Premises by Lessee during the term of this Agreement shall require the additional consent of the Ector County Commissioners Court. The entire cost of any removal, storage, maintenance, transportation and/or disposal of any Leasehold Improvement shall be borne by Lessee. Upon termination or expiration of this Agreement, OSA may require Lessee to remove Lessee's Improvements. In such event, Lessee shall restore the Leased Premises to an unimproved condition at Lessee's sole cost and expense. If Lessee fails to do so, OSA may, at its option, cause the improvements to be removed and the Leased Premises restored at the sole cost and expense of the Lessee.

Section 6.4 Construction of New Improvements. Lessee shall have the right to construct improvements on the Leased Premises consisting of hangars, ramps, and other such improvements. Lessee shall not construct any improvements to the Leased Premises without submittal to, and approval of, all plans and specifications by OSA as hereinafter set forth. All plans and specification for new improvements on the Leased Premises shall be prepared by Lessee in compliance with all Governmental Requirements. Lessee shall furnish to OSA copies of permits and licenses needed for construction. A construction application, in a form prepared by Authority, together with plans and specifications, shall be submitted by Lessee to OSA for approval. Thereafter, OSA shall have thirty (30) days after receipt within which to approve the plans and specifications, or to notify Lessee of any objections thereto. Each objection and the ground therefore, shall be stated separately. Lessee shall have a reasonable time thereafter within which to make any revisions to remove OSA's objections. Upon OSA's receipt of the

final plans and specifications, OSA shall have thirty (30) days within which to approve or reject Lessee's revised proposal. After OSA's approval of the final plans and specifications, Lessee may proceed with construction. Construction shall be substantially in accordance with the approved plans and specifications. Upon completion of construction, Lessee shall furnish to OSA one (1) complete set of reproducible "as built" plans and specifications in digital format.

Section 6.5 Adverse Effect of New Improvements. New improvements on the Leased Premises shall not be constructed in a manner which may adversely affect existing improvements, other Airport tenants, Airport property contiguous to the Airport.

Section 6.6 Inspection. OSA and/or the County, and their authorized representatives, shall have the right to inspect the Leased Premises during all reasonable hours, or in case of emergency, at any time.

Section 6.7 Weight Limitations. Lessee hereby specifically acknowledges that the roadways, taxi lanes, taxiways, ramps and aprons located on the Airport wherein the Leased Premises are located are stressed for designated maximum gross weights. Lessee shall be responsible for all damages or destruction caused by utilization of said Airport roadways, taxi lanes, taxiways, ramps and aprons by aircraft or vehicles operated by Lessee or invites in excess of the maximum gross weights.

Section 6.8 Minimum Hangar Standards.

- a. **Outside Storage.** Lessee shall not store any items on the exterior of the hangar structure, except as may be specifically permitted by this agreement or with the prior written permission of the Odessa-Schlemeyer Airport Director. Aircraft in an unairworthy condition or disabled, disassembled, or partially assembled aircraft, parts or other aircraft components thereof, shall not be parked, stored or left standing for a period of excess of thirty (30) days on the exterior areas or portions of the Leased Premises. Approval of the Airport Director is required if the thirty (30) day period allowed will be exceeded.
- b. **Exterior Improvement Appearance.** Lessee shall maintain the exterior appearance of the Leasehold Improvements on the Leased Premises in a proper state of repair and shall specifically prevent, repair and paint any visible peeling, chipped, faded or rusted areas. Lessee shall re-skin the exterior surfaces of a hangar, if the skin is penetrated, using at a minimum 26-gauge metal siding with a twenty (20) year paint guarantee. If the exterior has not been penetrated and rust can be overlaid, damaged areas shall be repaired with corrosive inhibitor coating and painted to match the hangar exterior. Lessee shall be deemed in inhibitor coating and painted to match the hangar exterior. Lessee shall be deemed in conformity with this maintenance standard if Lessee has consulted, and complied, with reasonable directives from OSA. Compliance with this maintenance standard is a prerequisite for OSA approval of (i) Lessee's option to extend, and/or (ii) a new sublease agreement for the Leased Premises.

ARTICLE VII

Maintenance and Care of Leased Premises

Section 7.1 Lessee's Obligations. Lessee shall perform all maintenance, including but Not limited to, all repairs relative to heating, electrical, plumbing and air conditioning systems; roofs; walls; structure; structural improvements; paving; and any ramp on the Leased Premises. Lessee, at all times, shall keep in a clean and orderly condition and appearance all the Leased Premises and all of Lessee's fixtures, equipment and personal property which are located thereon. Lessee shall not commit or suffer to be committed any nuisance on the Leaded Premises. Lessee shall conduct Lessee's operations in an orderly and proper manner so as not to annoy, disturb, or be offensive to others at the Airport. Lessee shall take all reasonable measures to keep the sound level of Lessee's operations as low as

reasonably possible. Lessee shall not permit the accumulation of any rubbish, trash or other waste material. Except in tanks and in the manner approved by appropriate governmental authorities, Lessee shall not store any gasoline or other material likely to give off fumes or gases or any material likely to constitute a fire, safety or security hazard on the Leased Premises. Lessee shall not cause or permit any hazardous or flammable substance to be used, stored, generated or disposed of on the Airport or Leased Premises, except as otherwise provided herein.

ARTICLE VIII

Indemnity and Insurance

Section 8.1 Indemnity-General. Lessee shall indemnify, protect, defend and hold completely harmless, OSA, the County, and its officers, agents and employees from and against all liability, losses, suits, claims judgments, fines or demands arising from injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including attorney fees, court cost, and expert fees). Of any nature whatsoever arising out of or incident to this Agreement, Lessee's use or occupancy of the Leased Premises, the Airport, or the rights, licenses, or privileges granted Lessee herein, or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regarding of where the injury, death or damage may occur, unless such injury, death or damages is caused by the sole negligence of OSA. OSA shall give notice to Lessee of any such liability, loss, suit, claim or demand, and Lessee shall defend the same using counsel reasonable acceptable to OSA. The provisions of this section shall survive the expiration or early termination of this Agreement.

Section 8.2 Insurance.

- a. Lessee shall maintain in force during the Term, and any extended Term, public liability and insurance in comprehensive form including but not limited to airport premises liability and aircraft liability with such coverage and limits as reasonably may be required and approved by OSA from time to time, but in no event for less than in minimum amounts equal to the liability limits applicable to municipalities under the Texas Governmental Tort Claims. OSA, the Ector County, and their officers, employees, and or agents shall be named as additional insured on said policy up to, but not exceeding, the statutory liability limits. This requirement should not be construed as limiting the ability of Lessee to obtain additional liability insurance in excess of the statutory liability amounts, provided that OSA, the County of Ector, and their officers, employees, and/or agents are not named as additional insured to the extent any liability coverage in excess of the statutory liability limits is procured by Lessee.
- b. Concurrent with the execution of this Agreement, Lessee shall provide proof of insurance by providing a certificate of Lessee's insurance coverage. The certificate (s) of insurance shall provide that (1) the insurance coverage shall not be cancelled, changed in coverage, or reduced in limits without at least thirty (30) days prior written notice to OSA; (2) the policy shall be considered primary as regard any other insurance coverage OSA or the County may possess, including any self-insured retention or deductible OSA or the County may have and any other insurance coverage OSA or the County may possess shall be considered excess insurance only; and (3) deductibles shall not exceed five thousand dollars (\$5,000.00).
- c. If the insurance coverage required herein is cancelled, changes in coverage or reduced in limits, Lessee shall, within thirty (30) days, but in no event later than the effective date of cancellation, change or reduction, provide to OSA a certificate showing that insurance coverage has been reinstated or provided through another insurance company. Upon failure to provide such certificate, and Lessee's failure to respond to a written notice from OSA, OSA may in addition to all its other remedies exercise OSA's rights as provided in the default provisions of this Agreement.

ARTICLE IX

Governmental Requirements

Section 9.1 Governmental Requirements- General. Lessee shall comply with all Governmental Requirements applicable to Lessee's use of the Airport and operation/utilization of the Leased premises and improvements thereon. Lessee shall also require its guests, invitees, and those doing business with it to comply with all applicable Governmental Requirements.

Section 9.2 No Liability for Exercise of Powers. Neither OSA nor the County shall be liable to Lessee for any diminution or deprivation of Lessee's rights which may result from the proper exercise of any power to preserve OSA or the County in this Agreement. Lessee shall not be entitled to terminate this Agreement by reason thereof, unless the exercise of such power shall substantially interfere with Lessee's rights hereunder so as to constitute a termination of this Agreement by operation of law.

Section 9.3 Non-discrimination. Lessee, Lessee's successors in interest and assigns, as a part of the consideration hereof, do covenant and agree hereby, as a covenant running with the land, that in the event facilities are constructed, maintained or otherwise operated on property described in this Agreement for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provisions of similar services or benefits, Lessee shall remain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49 CFR Part 21, (Non-discrimination in Federally-Assisted Programs of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964). Part 26 (Participation by Minority Business Enterprises and DOT Programs) and Part 27 (Nondiscrimination on Basis of Handicap and Programs and Activities Receiving or Benefiting from Federal Assistance) and the regulations promulgated thereunder or may hereafter be amended.

Section 9.4 Taxes and Other Governmental Charges. Lessee shall pay, as the same become due, all taxes and governmental charges of any kind whatsoever that any time lawfully may be assessed or levied against or with respect to Lessee's Leasehold Improvements, including any ad valorem or personal property tax that may be assessed against any leasehold interest or estate created by this Agreement. In good faith and with due diligence, as permitted by law, Lessee may contest any such taxes or governmental charges.

Section 9.5 Domestication. If Lessee is a foreign corporation, Lessee shall domesticate corporate status within the State of Texas. Lessee shall obtain a certificate of good standing from the Secretary of the State of Texas and provide to OSA such evidence of good standing as OSA from time to time reasonably may require.

ARTICLE X

DEFAULT

Section 10.1 Events of Default Defined/Cure. The following shall be "events of default" under this Agreement, and the terms "events of default" or "default" shall mean, whenever they are used herein, any one or more of the following:

- a. Lessee shall fail to pay when due and owing any rentals, fees, or charges payable hereunder and such nonpayment shall continue for thirty (30) days after written notice thereof by OSA;
- b. Lessee shall (1) mortgage, pledge or encumber, any portion of its interest in this Agreement; (2) subject the Leased Premises to any lien of whatsoever nature, or (3) transfer, sublease or assign, either voluntarily or by operation of law, any portion of its interest in the Leased

Premises, the Leasehold Improvements, or in this Agreement, except in accordance with the provisions hereof;

- c. Lessee shall terminate Lessee's corporate structure, except as permitted herein;
- d. Lessee shall substantially breach any term, provision, condition, obligation or covenant under this Agreement;
- e. Lessee shall abandon, desert, or vacate the Leased Premises voluntarily for a continuous period of ninety (90) days or more after a written notice served on Lessee. Abandonment shall be presumed by evidence of non-payment of rentals for a continuous period on ninety (90) days after due, plus non-occupancy of the Leased Premises.
- f. Lessee shall fail to comply with insurance requirements imposed in Section 8.2 hereof.

If Lessee commits an event of default as set forth in Subsection 10.1 (a) through (f) hereof, and such failure shall continue unremedied for thirty (30) days after OSA shall have given to the Lessee written notice specifying such default, then OSA may proceed in accordance with Section 10.2 of this Agreement; provided, OSA may grant Lessee (in writing) such additional time as reasonably is required to correct any such default if Lessee has instituted corrective action as is diligently pursuing the same.

Section 10.2 Remedies upon Lessee's Default and Failure to Cure. Whenever an event of default of Lessee shall occur, and upon Lessee's failure to cure after notice of default is given as provided in Section 10.1 above, OSA may pursue any available right or remedy at law or equity, including:

a. **Termination.** OSA may deliver to Lessee written notice of termination, specifying the date (which must be at least thirty (30) days after the date of mailing of the notice) upon which the Agreement will terminate. In the event of termination, Lessee's right to possession of the Leased Premises immediately shall cease. OSA may then reenter and take possession of the Leased Premises and Lessee forthwith shall surrender possession of Leased Premises. Upon termination of this Agreement, Lessee shall be liable for payment of:

- 1. All sums accrued through the date of termination;
- 2. The balance of all rentals required to be paid to Lessee;
- 3. The reasonable costs incurred by OSA in terminating this Agreement, recovering possession of, and re-letting the Leased Premises, or any portion thereof; and
- 4. The reasonable cost incurred by OSA to restore the Leased Premises or any portion thereof to the condition in which they originally were leased, ordinary wear and tear excepted.

All rentals received by OSA from re-letting the Leased Premises after the termination of this Agreement shall be credited against the Outstanding Rental Balance. The acceptance by OSA of any rentals from Lessee after the termination of this Agreement shall not reinstate this Agreement.

- b. **Possession of Leased Property: Storage.** If OSA takes possession of the Leased Premises upon Lessee's default, OSA may expel Lessee and those claiming through or under Lessee and remove their property. OSA may remove all of Lessee's property in or upon the Leased Premises and place such property in storage for the account, and at the sole expense, of Lessee.
- c. **Cumulative Remedies.** Each remedy available to OSA under this Section shall be cumulative and shall be in addition to every other remedy of OSA under this Agreement or existing at law or in equity.

Section 10.3 Nonwaiver. Neither the waiver by OSA of any breach by Lessee of any provision Hereof, nor any forbearance by OSA to seek a remedy for any such breach, shall operate as a waiver of any other breach by Lessee.

Section 10.4 Event of Default by OSA, Lessee's Remedies. OSA shall not be in default in the performance of any of its obligation hereunder until OSA shall have failed to perform such obligations for thirty (30) days or such additional time as is reasonably required to correct any such nonperformance, after notice by Lessee to OSA specifying wherein OSA has failed to perform any such obligation. Neither the occurrence nor existence of any default by OSA shall relieve Lessee of Lessee's obligation hereunder to pay rentals, fees and charges. However, Lessee may institute such action against OSA as Lessee may deem necessary to compel performance or recover Lessee's damages for nonperformance.

Section 10.5 Condemnation. If, at any time during the Term and any extended term, the Leased Premises or the Leasehold Improvements located thereon or any portion thereof shall be taken by exercise of the power of eminent domain by a governmental entity other than OSA or the County, the proceeds and awards in the condemnation proceedings shall be divided and rentals required hereunder shall be adjusted in such manner as shall be just and equitable. If OSA and Lessee are unable to agree upon a just and equitable division of proceeds and adjustment of rentals within thirty (30) days after rendition of any condemnation award, the matters then in dispute shall be submitted for determination by a court of competent jurisdiction. If the Leased Premises are taken wholly by condemnation, this Agreement shall terminate. Provided, valuation of Lessee's interest in the Leased Premises and any Leasehold Improvements thereon shall be determined in the manner set forth in Section 4.6 entitled Termination of Agreement for Airport Purposes.

ARTICLE

Transfer of Interest

Section 11.1 Assignments by OSA and the County. OSA and the County may transfer or assign this Agreement to any successor in interest to whom the Airport may be sold or assigned without consent of Lessee; however, the successor in interest shall execute and deliver to OSA, with a copy to Lessee, an instrument assuming the obligations of OSA and the County under this Agreement.

Section 11.2 Assigning, Subletting and Encumbering. Lessee shall not assign, sublet or encumber the Leased Premises, or any Leasehold Improvements thereon, without OSA's prior written consent. If Lessee shall be other than an individual, for purposes of this section, the transfer of the majority of the shares of the Lessee (including any combination of shares that are equivalent to a majority interest) or any other evidence of majority ownership interest or control in the Lessee's enterprise, shall be deemed an "assignment."

Section 12.1 Rules of Construction. Throughout this Agreement, unless the context clearly shall require otherwise:

- a. The singular includes the plural and vice versa;
- b. The words "and" and "or" shall be both conjunctive and disjunctive;
- c. The words "all" and "any" mean "any and all",
- d. The word "including" means "including without limitation".
- e. Reference to any exhibits shall mean exhibits attached to this Agreement which shall be deemed incorporated by reference; and
- f. Reference to articles or sections respectively shall mean articles or sections of this Agreement.

Section 12.2 Existence of Lessee Entity. All references in this Agreement to "corporations" and "corporate" shall include limited liability companies and limited partnerships, as appropriate. If Lessee is a corporation, Lessee shall maintain its corporate existence and shall not dispose of all or substantially all of its assets and shall not consolidate with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it. However, Lessee may, without violating the prohibition contained in this section, consolidate with or merge into another corporation, or permit one or more other corporations to consolidate with or merge into it, or sell or otherwise transfer to another

corporation all of substantially all of its assets as an entity and thereafter dissolve. If the surviving or transferee corporation (a) assumes in writing all of the obligations of Lessee herein; (b) has net assets and capital (both paid in and surplus) at least equal to the net assets and capital of Lessee immediately prior to such consolidation merger, sale or transfer, and (c) is qualified to do business in Texas.

Section 12.3 Notice. All notices, certificates, statements, demands, request, consents, approvals, authorizations, offers, agreements, appointments, designations or other communication which may be or are required to be given by either party thereto to the other shall be deemed to have been given sufficiently on the fifth day following the day on which the same are mailed by registered or certified or priority mail, postage prepaid as follows, if to OSA or the County.

1010 E. 8th St
Odessa, Tx

and, if to Lessee:
Wor-Pro Investments, LLC
1300 N. Texas
Odessa, Tx 79761

OSA, the County, and Lessee, by written notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates or other communication shall be sent.

Section 12.4 Severability. In the event any provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, unless such holding shall materially and adversely affect the rights of either party as set forth herein.

Section 12.5 Entire Agreement: Modification. This Agreement expresses the entire understanding of OSA and Lessee concerning the leased Premises and all agreements of OSA and Lessee with each other concerning the subject matter hereof. Neither OSA nor Lessee has made or shall be bound by any agreement or any representation to the other concerning the Leased Premises or the subject matter hereof which is not set forth expressly in the Agreement. This agreement may be modified only by a written agreement of subsequent date hereto signed by OSA and Lessee.

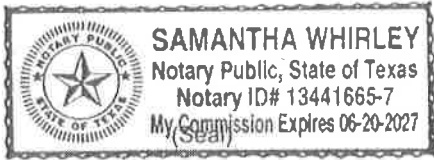
Section 12.6 Execution of Counterparts. This Agreement simultaneously may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.7 Effect of Saturdays, Sundays and Legal Holidays. Whenever this Agreement requires any action to be taken on a Saturday, Sunday or a legal holiday, such action shall be taken on the first business day occurring thereafter. Whenever in this Agreement, the time within which any action is required to be taken, or within which any right will lapse or expire, shall terminate on Saturday, Sunday or a legal holiday, such time shall continue to run until 11:59 p.m. on the next succeeding business day.

Section 12.8 Descriptive Headings: Table of Contents. The descriptive headings of the Sections of this Agreement and any Table of Contents annexed hereto are inserted or annexed for convenience of reference only and do not constitute a part of this Agreement, and shall not affect the meaning, construction, interpretation or effect of this Agreement.

Section 12.9 Choice of Law: Enforcement. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas. Whenever in this Agreement it is provided that either party shall make any payment or perform, or refrain from performing, any act or obligation, each such provision, even though not so expressed, shall be construed as an express covenant to make such payment or to perform, as the case may be such act or obligation.

Subscribed and sworn to me before this 8 day of July 2024.



Samantha Whirley
Notary Public

My Commission Expires: 10-20-27

COUNTY ENDORSEMENT

The County Court of Ector hereby authorizes the Odessa-Schlemeyer Airport to enter into the above lease agreement dated ----- 2024, between Odessa-Schlemeyer Lessor, and _____, Lessee.

County of Ector

Dustin Fawcett, County Judge

(Seal)
ATTEST:

Jennifer Martin, County Clerk

Section 12.10 Force Majeure. Neither OSA nor Lessee shall be deemed in violation of this Agreement if it is prevented from performing any of the obligation hereunder by reason of embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellions, sabotage, or any other circumstances for which it is not responsible or which are not within its control, and the time for performance automatically shall be extended by the period the party is prevented from performing its obligations hereunder; however, these provisions shall not apply to the failure of Lessee to pay the rentals and other charges required hereunder.

Section 12.11 Recovery of Attorney's Fees and Costs. If either party shall bring any legal or equitable action against the other, the non-prevailing party shall pay the prevailing party's reasonable attorney's fees and costs incurred in such action and any appeal therefrom. For purposes of this section, "costs" shall include expert witness fees, court reporter fees, and courts costs.

Section 12.12 Binding Effect. This Agreement shall inure to the benefit of, and shall be binding upon, OSA and its successors and assigns, and upon Lessee and Lessee's respective heirs, devisees, personal representatives, successors, and assigns, if such assignment shall have been made in conformity with the provisions of this Agreement.

IN WITNESS WHEREOF, OSA and Lessee have entered into this Agreement at Ector, Texas, on the _____ day of _____, 2024.

Odessa-Schlemeyer Airport



Manager

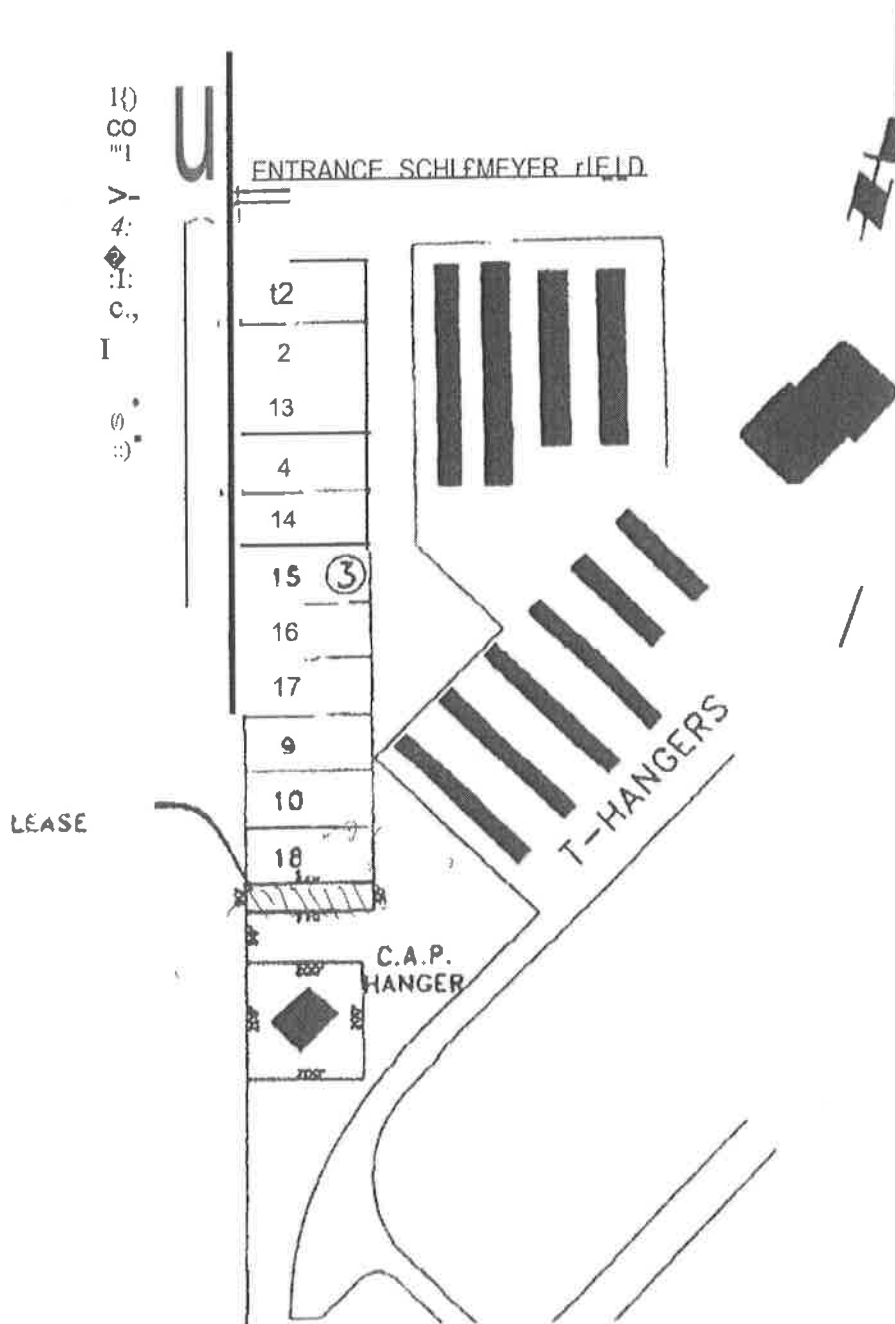
(Seal)
ATTEST:

Jennifer Martin, County Clerk



Lessee

EXHIBIT 'A'



ECTOR COUNTY SCHLIEFMEYER FIELD
DESERT X-RAY LEASE

etoir cwien
ENGINEERING DEPARTMENT

FRANK HERBERT, P.E. - COUNTY ENGINEER

DATE: 08-05-07 SCALE: 1" = 300'
DRAWN BY: R.P.V. APPROVED BY: F.H.
FILE: 010-0001-005-XRAY

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT, hereinafter "Agreement," made effective as of July 31, 2024, by and between T AERO II, LLC., a Texas limited liability company, hereinafter referred to as "Seller," and ECTOR COUNTY, a Texas governmental entity, hereinafter referred to as "Buyer," confirms the agreement of Seller to sell and Purchaser to purchase specified rights and assets owned by Seller and utilized in storing aircraft at Odessa-Schlemeyer Airport, located in Odessa, Ector County, Texas, at a closing (the "Closing") on or before July 31, 2024 (the "Closing Date").

WITNESSETH:

WHEREAS, Buyer is the owner and operator of the Odessa-Schlemeyer Airport (the "Airport"), located in Section 46, Block 42T-1-S, Texas and the Pacific Railway Company Survey, Ector County, Texas;

WHEREAS, Seller is the lessee of certain lands at the Airport and is a fixed base operator ("FBO") at the Airport pursuant to an Assignment of Lease and Lessor Consent executed in September 2019 (attached hereto as "Exhibit A"), for the assignment of a Ground Lease Agreement dated February 13, 2012 (the "Ground Lease") between Seller and Buyer, acting through the Airport (attached hereto as "Exhibit B");

WHEREAS, Seller is the owner of furniture, fixtures, supplies, inventory and equipment that are located at or attached to the Hangar at the Airport (the "Hangar"), and which are currently used to hangar aircraft at the Airport and/or in furtherance of same and of its operations as a fixed base operator; and

WHEREAS, Buyer now wishes to acquire the Hangar and the rights to the Ground Lease, and to occupy the Hangar and to acquire the furniture, fixtures, equipment, and other items owned by Seller in the conduct of Seller's use of the Hangar and/or in furtherance of same and of its operations as a fixed base operator, along with the goodwill included in those assets, as more specifically set forth in this Agreement; and

WHEREAS, the parties to this Agreement have reached an understanding with respect to the sale by Seller and purchase by Buyer of the Assets identified in Section 2 of this Agreement.

NOW, THEREFORE, the parties hereto intending to be legally bound, in consideration of the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby agree as follows:

1. **Purchase Price; Payment Terms.** Seller shall sell to Buyer, and Buyer shall purchase from Seller, AS IS, and subject to all terms and conditions of this Agreement, the Assets identified in Section 2 of this Agreement. The purchase price for the Assets shall be TWO MILLION NINE HUNDRED THOUSAND AND 00/100 DOLLARS (\$2,900,000.00) (the "Purchase Price"). The parties agree that the Purchase Price shall be paid by wire transfer,

cashier's check or other readily available funds as follows:

(a)	Upon Execution of this Agreement	\$400,000.00
(b)	On or before October 1, 2024	\$2,100,000.00
(c)	<u>On or before December 1, 2024</u>	<u>\$400,000.00</u>
	TOTAL:	\$2,900,000.00

The initial \$400,000 shall be a partial payment for the two hangers referenced in this document as well as the collateral documents related to this transaction.

2. **Assets.** Seller shall sell, assign, transfer and convey to Buyer, hereinafter referred to as "convey," the following assets to Buyer effective as of October 1, 2024:

- (a) The Furniture, Fixtures, Supplies, Inventory and Equipment which are owned by Seller and listed in "Schedule 1" attached hereto;
- (b) All assets purchased by Seller in the Asset Purchase Agreement dated December 13, 2019 between Seller and Charles and Frances Grisham;
- (c) All of Seller's rights as lessee to the Ground Lease, including any leasehold improvements owned by Seller (to be memorialized in a separate Assignment and Assumption of the Ground Lease); and
- (d) Goodwill in the Assets.

As used in this Agreement, "Assets" is intended to refer to and include only those assets specifically identified in (a) through (d) above. The term Assets does not include any other assets or real property owned by Seller.

3. **Taxes.** To the extent owed, Seller has paid and will pay all personal property taxes allocable to the period prior to the Closing Date; and Purchaser will pay all personal property taxes allocable to the period on and after the Closing Date. To the extent that any such personal property taxes owed by Seller will come due after the Closing Date, Purchaser shall, within thirty (30) days of receipt of the personal property tax bill, deliver to Seller an accounting of Seller's obligations under such personal property tax bill and Seller shall pay to Purchaser its prorated share of that personal property tax bill within five (5) days of receipt of notice.

4. **Bill of Sale, Assignment and Assumption Agreement.** At Closing, Seller shall deliver to Buyer documents of transfer to the Assets set forth in Section 2(a)-(b), in due and proper form, to convey good and marketable title to Buyer free and clear of all liens, encumbrances, deeds of trusts, or other charges. Seller shall generally convey the Assets set forth in Section 2(a)-(b) by delivering to Buyer a Bill of Sale, Assignment and Assumption Agreement wherein Seller warrants its title to the Assets. Seller shall further execute and deliver such other documents, upon reasonable written request by Buyer, as may be necessary to effectuate the transfer of all items constituting the Assets.

5. **Assignment and Assumption of Ground Lease.** At Closing, Seller and Buyer

shall execute an Assignment and Assumption of the Ground Lease from Seller (as Assignor) to Buyer (as Assignee) to convey the transfer of the Assets identified in Section 2(c).

6. **Risk of Loss.** Risk of loss to the Assets shall be upon Seller until the Closing and thereafter shall be upon Buyer. Seller shall continue in force, until Closing, all insurance now in force covering the Assets. In the event that prior to Closing the Assets shall be damaged by fire, explosion, or any other cause, Buyer shall, as its sole remedy, have the right to rescind this Agreement. Buyer shall secure its own insurance to be effective at Closing, and Buyer shall obtain and maintain, at Buyer's sole cost and expense, insurance on the Assets in no less than the amount required by the Ground Lease.

7. **Operations of FBO.** Seller agrees to maintain operations of the FBO pursuant to the Ground Lease from the date of execution of this Agreement until September 30, 2024. Buyer agrees to take over operations of the FBO pursuant to the Ground Lease effective as of October 1, 2024.

8. **Revenues.** All revenues collected by Seller at the FBO pursuant to the Ground Lease from the date of execution of this Agreement until September 30, 2024 shall belong entirely to Seller.

9. **Upkeep of Assets.** From the date of execution of this Agreement to October 1, 2024, Seller agrees to maintain upkeep and any necessary servicing and/or maintenance on the Assets listed in Schedule 1 or that may be purchased between execution of this Agreement and October 1, 2024 for operation of the FBO.

10. **Seller's Indemnification.** On and after the Closing Date, Seller covenants and agrees to indemnify, defend, and hold harmless Buyer, from and against any and all claims, demands, suits, actions, damages, and attorney's fees, and costs, that directly arise out of or are based upon facts and circumstances or alleged facts and circumstances that occurred prior to the Closing Date and pertain to the operation of the FBO pursuant to the Ground Lease, any of the Assets conveyed to Buyer in this Agreement, or any of Seller's obligations in this Agreement.

11. **Buyer's Indemnification.** On and after the Closing Date, Buyer covenants and agrees to indemnify, defend, and hold harmless Seller and its partners, directors, officers, shareholders, employees, agents and representatives from and against any and all claims, demands, suits, actions, damages, and attorney's fees, and costs, that directly arise out of or are based upon facts and circumstances or alleged facts and circumstances that occurred on or after the Closing Date and pertain to the operation of the FBO pursuant to the Ground Lease, any of the Assets conveyed to Buyer in this Agreement, or any of Buyer's obligations in this Agreement.

12. **Indemnification Procedure.** If any claim, demand, suit, or action shall be made or liability therefore asserted against any party being indemnified, hereinafter "Indemnitee," or if any claim, demand, suit, or action shall be instituted or commenced in which any Indemnitee is involved or shall be named as a defendant either individually or with others, and if successfully maintained, such Indemnitee shall give the party making the indemnification hereinafter "Indemnitor," written notice within thirty (30) days of the pendency of the same or as soon as

practicable. If, within thirty (30) days after the giving of such notice, the Indemnatee receives written notice from Indemnitor stating that the Indemnitor disputes or intends to defend against such claim, demand, suit, or action, then Indemnitor shall have the right to select counsel of its choice and to dispute or defend against such claim, demand, suit, or action, at its expense and such Indemnatee shall fully cooperate with Indemnitor in such dispute or defense so long as Indemnitor is conducting such dispute or defense diligently and in good faith; provided, however, that Indemnitor shall not be permitted to settle such dispute or claim without the prior written approval of Indemnatee, which shall not be unreasonably withheld.

Even though Indemnitor selects counsel of its choice, Indemnatee shall have the right to additional representation by counsel of its choice to participate in such defense at Indemnatee's sole cost and expense. If no such notice of intent to dispute or defend is received by Indemnatee within the aforesaid thirty (30) day period, or if diligent and good faith defense is not being, or ceases to be, conducted, Indemnatee shall have the right to dispute and defend against the claim, demand, suit, or action at the sole cost and expense of Indemnitor and to settle such claim, demand, suit, action, or other liability, and in either event to be indemnified as provided for herein; provided, further, that Indemnatee shall not be permitted to settle such claim, demand, suit, action, proceeding, loss or judgment without the prior written approval of Indemnitor, which shall not be unreasonably withheld.

Nothing in this Section, in Sections 11 and 12, or in this Agreement, shall limit or otherwise adversely affect Seller's or Buyer's rights or remedies that exist at law or in equity.

13. Representations and Warranties of Seller. Seller represents and warrants to Buyer, all of which representations and warranties shall be true at the Closing Date, the following:

(a) **Corporate Power.** Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Texas; has full power and authority to own its Assets, to carry on its business at the FBO as now conducted, to enter into and perform this Agreement, and to convey the Assets as contemplated by the terms of this Agreement.

(b) **Approvals.** The members of Seller have taken all steps necessary to authorize and approve this Agreement and its performance in due and proper form, and no approval of any other person is required for the performance of Seller's obligations hereunder.

(c) **Title to Assets.** Seller owns and has good title to and/or has the right to convey the Assets identified in Schedule 1, and Buyer, upon payment of the Purchase Price, will be the owner of and have good title to each of the Assets, subject to no lien, encumbrance, deed of trust or other charge. The Assets described in Schedule 1 constitute all of the assets being sold by Seller to Buyer.

(c) **Condition.** The assets are conveyed to Buyer in its "AS IS" condition, without warranty.

(d) **Litigation; Actions.** Seller is not involved in any pending or threatened litigation which would materially affect the Assets being conveyed to Buyer, or its financial condition. To the best of Seller's knowledge, there are no suits, proceedings, or investigations, either administrative or judicial, pending or threatened against the Assets being conveyed to Buyer under this Agreement.

(e) **Advisory Opinion.** Seller has, prior to the execution of this Agreement (and prior to the execution of any of the documents (as set forth in any Exhibits attached hereto or otherwise identified in this Agreement)), to the extent deemed necessary to Seller in Seller's sole discretion, sought and/or received the advice of attorneys, accountants, and other business advisors concerning the subject matter of this Agreement, the form and content of this Agreement, and the existence and execution of all documents (as set forth in any Exhibits) that are to be executed by Seller.

(f) **Tax Returns.** Proper and complete applicable state, local, and federal income, personal property, payroll, sales, use, and other tax returns have been or will be filed by Seller for all fiscal years and periods ending on or prior to the Closing Date and all such taxes, if any, payable for such years have been paid and/or by the Closing Date will be paid and/or adequate provision made therefore. To the extent any such taxes or returns therefore are due after the Closing Date, Seller agrees to properly prepare and file any such returns and to pay, or make arrangements to pay, any tax due.

(g) **Enforceability.** This Agreement constitutes the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms. Each of these warranties shall continue in effect following, and shall not be terminated as a result of, the Closing of this Agreement.

Buyer acknowledges that as concerns that representations and warranties set forth above, Seller has made no inspection, investigation, or inquiry other than normal operation of its business, unless it is expressly indicated that Seller has done so. Seller does represent that it has no knowledge of any facts that would indicate that the representations and warranties made herein are untrue or inaccurate in any respect.

14. Representations and Warranties of Buyer. Buyer represents and warrants to Seller, all of which representations and warranties shall be true at the Closing Date, the following:

(a) **Governmental Power.** Buyer is a Texas governmental entity duly organized, validly existing and in good standing under the laws of the State of Texas; has full power and authority to purchase and own the Assets, to enter into and perform this Agreement, and to perform its obligations entered into in this Agreement and the agreements set forth in any exhibits attached to this Agreement.

(b) **Approvals.** All of Buyer's commissioners and authorized designees have taken all steps necessary to authorize and approve this Agreement and its

performance in due and proper form, and no approval of any other person or party is required for the performance of Buyer's obligations hereunder.

(c) **Condition.** Buyer accepts all Assets conveyed by Seller in this Agreement in its existing and present "AS IS" condition and Buyer waives any and all rights it has, or may have, to contest the quality, condition, or sufficiency of any Assets that are the subject of this Agreement.

(d) **Due Diligence.** Buyer has made, or will make, prior to Closing, to the extent deemed necessary to Buyer in Buyer's sole discretion, all investigations or inquiries desired by Buyer concerning the Assets to be conveyed, and business or operation of the FBO pursuant to the Ground Lease.

(e) **Reliance.** Buyer, in entering into this Agreement, is not relying on any representations or warranties made by, or on behalf of, Seller that are not expressly set forth in this Agreement.

(f) **Advisory Opinion.** Buyer has, prior to the execution of this Agreement (and prior to the execution of any of the documents (as set forth in the Exhibits or otherwise identified in this Agreement)), to the extent deemed necessary to Buyer in Buyer's sole discretion, sought and/or received the advice of attorneys, accountants, and other business advisors concerning the subject matter of this Agreement, the form and content of this Agreement, and the existence and execution of all documents (as set forth in any Exhibits) that are to be executed by Buyer.

(g) **Tax Returns.** To the extent necessary, proper and complete applicable state, local, and federal income, personal property, payroll, sales, use, and other tax returns have been or will be filed by Buyer for all fiscal years and periods after the Closing Date and all such taxes, if any, payable for such years have been paid and/or by the Closing Date will be paid and/or adequate provision made therefore. To the extent any such taxes or returns therefore are due after the Closing Date, Buyer agrees to properly prepare and file any such returns and to pay, or make arrangements to pay, any tax due.

(h) **Enforceability.** This Agreement constitutes the valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms. Each of these warranties shall continue in effect following, and shall not be terminated as a result of, the Closing of this Agreement.

15. **Employees.** On or prior to October 1, 2024, Seller shall terminate the employment of any employees currently employed by Seller at the FBO. Buyer may choose to offer employment to those employees in its sole discretion. The terms and conditions of employment for any employee that accepts employment with Buyer shall be determined by, and solely be the responsibility of Buyer upon employment; and Seller shall, following termination of each employee, have no further obligation to employ any such terminated employee. Seller will be

solely responsible for all compensation, benefits and taxes payable to or with respect to all of its employees for services performed prior to October 1, 2024 and will pay all such amounts when due.

16. Conditions to Buyer's Obligations. All obligations of Buyer under this Agreement are subject to the fulfillment at Closing of each of the following conditions:

(a) Seller's representations and warranties contained in this Agreement shall be true and correct in all material respects at the time of Closing as though such representations and warranties were made at such time;

(b) Seller shall have performed and complied with all agreements and conditions required by this Agreement to Buyer's satisfaction;

(c) Seller shall make all deliveries identified in and/or required by Section 2 of this Agreement to Buyer on October 1, 2024; and

(d) Buyer shall have obtained all permits, licenses, or other authorizations necessary for Buyer to operate the FBO.

17. Conditions to Seller's Obligations. All obligations of Seller under this Agreement are subject to the fulfillment prior to or at Closing (or after Closing as it relates to certain payments of the Purchase Price as contemplated in Section 1 of this Agreement) of each of the following conditions:

(a) The representations and warranties of Buyer contained in this Agreement shall be true at the Closing as though such representations and warranties were made at such time; and

(b) Buyer shall have performed and completed all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Date, with the exception of those portions of the Purchase Price that are to be paid on or after the Closing Date pursuant to Section 1 of this Agreement, with said payments required to be timely made by Buyer as contemplated in this Agreement.

18. Post-Closing Covenants. Following the Closing Date:

(a) Seller will provide reasonable assistance to Buyer in the transfer of the Assets to Buyer on October 1, 2024; and

(b) Buyer will make any remaining payments owed towards the Purchase Price on or before the dates provided in Section 1 of this Agreement.

19. Default By Buyer. If Buyer fails to comply with this Agreement, or with the terms or conditions of any document executed by Buyer that is identified in this Agreement, and/or

attached to this Agreement in any Exhibit to this Agreement, Buyer shall be in default. In the event of default, Seller shall provide Buyer with notice of default and Buyer shall have thirty (30) days to cure any monetary default (such as payment of any amounts due under this Agreement, and forty-five (45) days to cure any non-monetary default, unless Seller expressly agrees, in writing, to allow Buyer a longer time period to cure such default.

In amplification of the above paragraph, and without intending to limit such paragraph in any way, Buyer acknowledges and agrees that Buyer's failure to timely pay any amounts due towards the Purchase Price in this Agreement is a default under this Agreement, whether due on or after the Closing Date.

20. Default by Seller. If Seller fails to comply with this Agreement, or with the terms or conditions of any document executed by Buyer that is identified in this Agreement and/or attached to this Agreement in any Exhibit to this Agreement, Seller shall be in default. In the event of default, Buyer shall provide Seller with notice of default and Seller shall have twenty (20) days to cure any default, unless Buyer expressly agrees, in writing, to allow Seller a longer time period to cure such default.

21. Good Faith. Seller warrants, represents, and agrees to act in good faith and use its best efforts to coordinate a smooth and seamless transition and to provide support and assistance to Buyer and its staff between the time of the execution of this agreement up to October 31, 2024. Seller further warrants that it will not disparage Buyer in any way.

22. Miscellaneous.

(a) Survival. Except as otherwise expressly provided in this Agreement, all representations, warranties, agreements, covenants and indemnifications made by Seller and Buyer in this Agreement or in any document delivered by either party to the other pursuant to this Agreement, shall survive the Closing.

(b) Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered with written acknowledgment of delivery by the receiving party, or if sent by certified mail, return receipt requested, to the other party at the address set forth below, or at such other address as such party may have provided to the other party in writing:

To Seller:

T Aero II, LLC
Attn: William Meyer
7815 Karl May Drive
Waco, Texas 76708

To Buyer:

Ector County
Attn: County Attorney
300 N. Grant
Odessa, Texas 79761

(c) Attorney's Fees. In the event of any dispute regarding this

Agreement (and/or any exhibits made a part hereof) and enforcement of same, the prevailing party shall be entitled to its reasonable and necessary attorney's fees and costs.

(d) **Counterparts**. This Agreement may be executed simultaneously in such counterparts as the parties may desire, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

(e) **Entire Agreement: Exhibits**. All negotiations between the parties are merged in this Agreement and there are no understandings or agreements other than those incorporated in this Agreement. This Agreement, together with any Exhibits and Schedules attached to this Agreement, constitutes the entire agreement between the parties. Any negotiations, representations warranties, covenants, or promises which are not contained in this Agreement or any Exhibits or Schedules not attached to this Agreement shall not have any force or effect. This Agreement supersedes and replaces any other agreement, oral or written, entered into between the parties, prior to the date of execution of this Agreement. This Agreement and any Exhibits and Schedules attached to this Agreement may not be modified or altered in any way, except by an instrument in writing duly executed by all parties to this Agreement. All Exhibits and Schedules to this Agreement are incorporated in the Agreement by reference, the same as if such Exhibits and Schedules were set forth in the Agreement verbatim.

(e) **Additional Documents**. Any party hereto shall deliver to the other party upon request any documents reasonably needed to effect the intent and purposes of this Agreement.

(f) **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of Seller and Buyer.

(g) **Invalid Provisions**. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

(h) **Explanatory Provisions**. The words "Buyer" and "Seller" shall be taken to include the parties hereto and their respective successors and assigns and shall be taken in the plural sense whenever the context requires, and all pronouns used herein and referring to said parties shall be construed accordingly, regardless of the number or gender thereof. Headings of the various paragraphs herein are inserted merely as a matter of convenience and for reference and shall not be considered in any manner as defining, limiting, or describing the scope or intent of the particular paragraphs to which they refer or as affecting the meaning or construction of the language in the body of such paragraphs.

(i) **Amendments; Waiver**. No waiver of any provision of this

Agreement shall arise from any action or inaction of any party, except an instrument in writing expressly waiving the provision executed by the party entitled to the benefit of the provision.

- (i) **Governing Law.** This Agreement shall be construed and governed by the laws of the State of Texas and applicable federal laws. Venue shall reside in Ector County, Texas.
- (j) **Unconditional Release and Waiver.** At the time of the execution of this document, each party to this Agreement fully and finally waives, releases, and discharges any and all claims or causes action against the other party, whether known or unknown, accrued or unaccrued which occurred or arose prior to the date of the execution of this document. This release does not include any claims or causes of action which accrue as a result of a failure or breach of this document or the documents associated to this transaction.

22. Fuel. At the time of closing of this transaction (October 1, 2024), Buyer agrees to purchase and Seller agrees to sell any fuel(Avgas and JetA) contained in the permanent fuel tanks or fuel farm at the current posted fuel prices.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of July 31, 2024.

SELLER:

T AERO II, LLC

By: _____

Printed Name: _____

Title: _____

Date: _____

BUYER:

ECTOR COUNTY

By: _____

Printed Name: _____

Title: _____

Date: _____

Schedule 1

Item	Model Number	Serial Number
12 ft utility trailer	Utility	5VNBU101XET129472
225 Gallon Water Tank	Ace Roto Mold	N/A
Aero Specialties Towbar	2000605	314896
Amana Dryer	N/A	C43424469
Amana Washer	N/A	M50202065
Astra G200 Towhead	N/A	317339
Astra Westwind Towhead	N/A	309998
Car Lift	XK USA L1000	20181029
Central Pneumatic Air Compress	N/A	N/A
Citation5 Towhead	N/A	312838
Citation625 Towhead	N/A	313089
CL-60 Towhead	N/A	T74199
Cotterman	N/A	T1006
Craftsman	M320 RWD	PUSH MOWER
Craftsman Air Compressor	191152910	159405577
Craftsman Air Compressor	15364	26316
CRJ-100 Towhead	N/A	T83640
Falcon 10 Towhead	N/A	313026
Falcon 100 Towhead	N/A	N/A
Falcon 50 Towhead	N/A	T73072
FoxAir 60	60B P/N 197-12000-7	N/A
Genie GS Lift	GS2632	117498
Gladiator 7 pt charger strip	N/A	N/A
Greenworks Pro Leaf Blower	BL60L00	Gww1310092
Jetgo	550-Mti-RJ	308833
KingAir Towhead	N/A	312255
LAV Cart	LC100E	308856
Lektro w/ charger	AP8650AX-EZ	A85311
Mobil Air Circulator 36"/ Dayton	1YNW5	E19455
Orange Universal Bar	N/A	8623
PC12 Towhead	000723	312178
Ph-100 Towhead	NA	005
PH-300	NA	T77764
Piaggio P180 tow head	2000435	N/A
Red Large Oild Collector	N/A	N/A
Rhino Wheel Ramps	N/A	N/A
Rigid Shop Vac 14 Gallon	WD14500	15023RO811
Rotary Cutter (Land Prarie)	RCR1872	1159992
Ryobi Pressure Washer	HONDA	2522279
Saber Glide 32" Ride (Zamboni)	SG32	100052460000105
Shop Vac 16 Gallon	SE16-SQ 650	87764-75
Stihl Leaf Blower	SH86C	279228465
Towhead Cart	N/A	N/A
TronAir Towbar	01-1202-0000	3084220201
Bar Chairs	N/A	N/A

Bar Table	N/A	N/A
Bunn Coffee Maker	VP17-2, SST	VP17233028
Glacier Bay Water Purifier	VWD1066BLS-1-HDU	04200700050
Insignia Television	NS-32DF310NA19	OUM19YA053809
Large picture with frame	N/A	N/A
larger clock (yellow and brown)	N/A	N/A
Magnavox Television	32MF301B/F7	ME3A1229212830
Otis Spunkmeyer Oven	OS-1	C0152583
Sharp Microwave	SMC0710BB	M16Y0325798
Tv	N/A	75G185284H01523
Chaulks	N/A	N/A
Cones	N/A	N/A
Fire Extinguishers	N/A	N/A
Trash Cans	N/A	N/A
Dell Computer	20BSW12	20BSW12
Vending Machine	3589	136876714323
HP Desk Jet Printer	4155E	CN1CFDF2C5
large blue pots	N/A	N/A
small concrete bench	N/A	N/A
4 layer shelves	N/A	N/A
6ft 500 Gallon Fuel Cell Gravity (Diesel)	N/A	N/A
6ft 500 Gallon Fuel Cell Gravity (gas)	N/A	N/A
Automated Fuel Terminal	M4000	4001296
av gas sump buckets	N/A	N/A
Fall Harness restraint	N/A	N/A
Fuel Filters	N/A	N/A
Gravity test tube	N/A	N/A
Harness	N/A	N/A
jet sump bucket	N/A	N/A
Mason Jar	N/A	N/A
Milapour set	N/A	N/A
milipour w grounder sump buckets	N/A	N/A
single points	N/A	N/A
Velcon Filtration System	HM1030M150DW	SO44154-6
Large Metal 2 door cabnet	N/A	N/A
Brother Printer	N/A	N/A
Dream Machine	N/A	N/A
Front Desk Computer	N/A	N/A
Front Desk Computer	N/A	N/A
G4 Instant	N/A	N/A
G4 Instant	N/A	N/A
U6-Enterprise	N/A	N/A
Yealink Accounting	N/A	N/A
Yealink Flight Planning	N/A	N/A
Yealink Front Desk	N/A	N/A
Yealink Front Desk 2	N/A	N/A
Yealink Front Desk 3	N/A	N/A

Yealink Morgan	N/A	N/A
Commercial Bel Drive Fan 60"	N/A	HE201700014114
Fox Cart	PR-2400-T6	800611
Hitachi Leaf Blower	RB24EAP	P540894
Metal Utility Cart-Large	N/A	N/A
Utility Shelving-7 shelves	N/A	N/A
GE Fridgerator	N/A	TBF21DB
Gladiator Cadet Tool Box	N/A	N/A
Metal Utility Cart	N/A	N/A
B51 airplane photo	N/A	N/A
Basket Plant tree	N/A	N/A
Black and white vase	N/A	N/A
Black Round charging table	N/A	N/A
Black stand up lamp	N/A	N/A
Blue potted plant	N/A	N/A
Blue potted tree	N/A	N/A
Brown entertainment center w/ decorations	N/A	N/A
Contempo Popcorn Machine	TP-8	1-216
Glass Round entry table	N/A	N/A
Grey Leather Chair	N/A	N/A
Grey Leather Love Seat	N/A	N/A
Grey Reading Lamp	N/A	N/A
Grey stump table	N/A	N/A
Keurig	N/A	N/A
Luggage Cart	N/A	N/A
Patterned cloth chair	N/A	N/A
Propeller picture	N/A	N/A
Samsung TV	N/A	07TN3CDMA03302M
Servend Ice Machine	M-45	610161368
Small Marble round table	N/A	N/A
Teal rug	N/A	N/A
Vitality Juice Machine	EX-48EPH	EX4X2229055
Chariot 3	iScrub26	N/A
Crescent shaped Table	N/A	N/A
* Aircraft Caddy 35 K	600200ACC36HD	315903
* Kubota Front Loader	N/A	N/A
4 Drawer Filing Cabinet	N/A	N/A
4 rack utility shelving	N/A	N/A
6 rack utility shelving	N/A	N/A
Aero Shell W100	N/A	N/A
Aqua Glow water detector kit	N/A	N/A
Asus Modem	N/A	03307140986098
Brother Printer Ink	TN223Y	N/A
Ceiling Tiles	N/A	N/A
Computer Chair	N/A	N/A
Deep Freezer	DPM5	245D1587p001
Dell Monitor	93AIO	7QFOTX1

GTX Radios	N/A	N/A
Hot Point Freezer	HHM7SRBWW	ZS943626
Ice O Matic Ice Machine	ICEU220HA2	12081280010876
Jack Stands	N/A	N/A
Kamtron Wireless IP Camera	826	X001 T4JFPN
Keyboard	N/A	N/A
L Shapped Desk	N/A	N/A
Lamp	N/A	N/A
Light Bulbs	N/A	N/A
Mobil Jet 2	N/A	N/A
Motorola Hand Held Radios W/ Charger	N/A	N/A
Mouse	N/A	N/A
Prestone Power Steering Fluid	N/A	N/A
Prist Windshiled Cleaner	N/A	N/A
RCA Hand held radios	N/A	N/A
Red Mats "Texas Aero"	N/A	N/A
Shop Towels	N/A	N/A
Short Cones	N/A	N/A
Whirlpool Re Fridgerator	W6TXNFWFT03	VS42194794
Wired Phones	N/A	N/A
Aero Shell W100 Plus	N/A	N/A
Aero Shell W15-50	N/A	N/A
Eastman Turbo Oil (2380)	N/A	N/A
Asus Model	RT-N65U	MSQRTW65U
Asus Wireless	AC3100	J61BHA000248
Black 2 Drawer File Cabnet	N/A	N/A
Computer Desk	N/A	N/A
Dell Optiplex 9030	9030	4ZQWSX1
Kenmore Refridgerator	N/A	WA53601421
Job Box-blue	N/A	N/A
Concrete Bench	N/A	N/A
Large blue pots	N/A	N/A
Metal Airplane scuplture	N/A	N/A
Metal Wind Chime	N/A	N/A
brown end table	N/A	N/A
Brown Leather Chairs	N/A	N/A
brown magazine holder	N/A	N/A
gold spotted lamp	N/A	N/A
Insignia Television	N/A	N/A
retectangle end tables	N/A	N/A
xbox	N/A	N/A
12ft Ladder	N/A	N/A
4ft ladder	N/A	N/A
6 ft ladder	N/A	N/A
8ft Ladder	N/A	N/A
Step Ladder	N/A	N/A
1996 Navistar International	4700	1HTSCABP0TH361009

2014 Ford Fuel Truck	4500	1FDUF4GY2FEA48075
2017 Ford Fusion	Fusion	3FA6P0HD6JR139263
2018 Hino (135) Av Fuel Truck	N/A	JHHTDM1H5KK001422
2019 Ford Edge	Ford	2FMPK3J9XLBA19421
2019 Ford Explorer	Explorer	1FMSK7DH8LGB04934
Chevy 15 passenger van	N/A	1GAZG1FG9E1162734
Club Cart	Golf Cart	264115
Eagle Tug	TT-6 2 WD	6281
Freightliner 5,000 Gallong Jet A Truck	5398	N/A
International 5,000 gallon JetA truck	5242	N/A
John Deer X758	X758	1M0X758AODM011079
Kubota ATV	RTV-900WX	77570
Kubota Tractor	L3560HSTC	41917
Buffet Table	N/A	N/A
Blue framed mirror	N/A	N/A
blue and white painting	N/A	N/A

Location	Quantity	Per Unit Amount	Total Amount
Big Hanger	1	\$2,500	\$2,500
Big Hanger	1	\$700	\$700
Big Hanger	1	\$1,800	\$1,800
Big Hanger	1	\$500	\$500
Big Hanger	1	\$750	\$750
Big Hanger	1	\$1,000	\$1,000
Big Hanger	1	\$2,600	\$2,600
Big Hanger	1	\$2,400	\$2,400
Big Hanger	1	\$500	\$500
Big Hanger	1	\$1,000	\$1,000
Big Hanger	1	\$1,000	\$1,000
Big Hanger	1	\$1,400	\$1,400
Big Hanger	1	\$1,500	\$1,500
Big Hanger	1	\$500	\$500
Big Hanger	1	\$500	\$500
Big Hanger	1	\$500	\$500
Big Hanger	1	\$2,000	\$2,000
Big Hanger	1	\$1,150	\$1,150
Big Hanger	1	\$2,000	\$2,000
Big Hanger	1	\$1,100	\$1,100
Big Hanger	1	\$7,500	\$7,500
Big Hanger	1	\$10,000	\$10,000
Big Hanger	1	\$100	\$100
Big Hanger	1	\$250	\$250
Big Hanger	1	\$14,500	\$14,500
Big Hanger	1	\$1,000	\$1,000
Big Hanger	1	\$5,000	\$5,000
Big Hanger	1	\$45,000	\$45,000
Big Hanger	1	\$500	\$500
Big Hanger	1	\$500	\$500
Big Hanger	1	\$1,000	\$1,000
Big Hanger	1	\$1,000	\$1,000
Big Hanger	1	\$1,000	\$1,000
Big Hanger	1	\$1,000	\$1,000
Big Hanger	1		\$0
Big Hanger	1		\$0
Big Hanger	1		\$0
Big Hanger	1	\$4,000	\$4,000
Big Hanger	1		\$0
Big Hanger	1	\$20,000	\$20,000
Big Hanger	1		\$0
Big Hanger	1	\$250	\$250
Big Hanger	1	\$750	\$750
Big Hanger	1	\$1,000	\$1,000
Break Room	7		\$0

[illegible]

IT	1		\$0
Little Hanger	1	\$500	\$500
Little Hanger	1	\$1,700	\$1,700
Little Hanger	1		\$0
Little Hanger	1		\$0
Little Hanger	2		\$0
Little Hanger Office	1	\$1,000	\$1,000
Little Hanger Office	1	\$1,000	\$1,000
Little Hanger Office	1	\$500	\$500
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	1		\$0
Lobby	3		\$0
Lobby	1		\$0
Lobby			\$0
Lobby	1		\$0
Lobby	3		\$0
Lobby	1		\$0
Lobby	1		\$0
Main Hangar	1	\$15,000	\$15,000
Mens Restroom	1		\$0
Not Found	1	\$11,000	\$11,000
Not Found	1	\$5,000	\$5,000
Office	1		\$0
Office	1		\$0
Office	1		\$0
Office	7		\$0
Office	1		\$0
Office	1		\$0
Office	12		\$0
Office	28		\$0
Office	1		\$0
Office	1	\$1,000	\$1,000
Office	1		\$0

Office	2		\$0
Office	1	\$1,000	\$1,000
Office	1	\$1,000	\$1,000
Office	4		\$0
Office	6		\$0
Office	1		\$0
Office	1		\$0
Office	2		\$0
Office	50		\$0
Office	10		\$0
Office	7		\$0
Office	1		\$0
Office	2		\$0
Office	5		\$0
Office	16		\$0
Office	15		\$0
Office	30		\$0
Office	3		\$0
Office	1	\$1,000	\$1,000
Office	5		\$0
Office	17		\$0
Office	8		\$0
Office	7		\$0
Office by Big Hanger	1		\$0
Office by Big Hanger	1		\$0
Office by Big Hanger	1		\$0
Office by Big Hanger	1		\$0
Office by Big Hanger	1		\$0
Office by Big Hanger	1	\$1,000	\$1,000
outside	1		\$0
outside	2		\$0
outside	2		\$0
outside	1		\$0
outside	3		\$0
Pilot Lounge	1		\$0
Pilot Lounge	6		\$0
Pilot Lounge	1		\$0
Pilot Lounge	1		\$0
Pilot Lounge	1		\$0
Pilot Lounge	2		\$0
Pilot Lounge	1		\$0
Utility	1		\$0
Utility	1		\$0
Utility	4		\$0
Utility	1		\$0
Various	2		\$0
Vehicle	1		\$0

Vehicle	1		\$0
Vehicle	1	\$15,000	\$15,000
Vehicle	1		\$0
Vehicle	1	\$25,000	\$25,000
Vehicle	1	\$25,000	\$25,000
Vehicle	1	\$15,000	\$15,000
Vehicle	1	\$6,000	\$6,000
Vehicle	1	\$42,000	\$42,000
Vehicle	1		\$0
Vehicle	1		\$0
Vehicle	1	\$17,000	\$17,000
Vehicle	1	\$16,500	\$16,500
Vehicle	1	\$40,000	\$40,000
womens rerstroom	1		\$0
womens rerstroom	1		\$0
womens rerstroom	1		\$0

\$392,700

Exhibit A

ASSIGNMENT OF LEASE AND LESSOR CONSENT

This Assignment of Lease and Lessor Consent (this "Assignment and Consent"), dated September __, 2019, is made by and among ECTOR COUNTY ("Lessor"), WILDCATTER AVIATION LLC, a Texas limited liability company ("Lessee"), and T AERO II, LTD., a Texas limited partnership ("Assignee").

RECITALS:

WHEREAS, Lessor and Lessee have entered into that certain Commercial Lease Agreement dated effective as of October 1, 2016 (the "Lease"), covering that certain real property situated in Section 46, Block 42, T-1-S, Texas and Pacific Railway Company Survey, Ector County, Texas on the Odessa Schlemeyer Files, as more fully described in Exhibit A attached to the Lease (the "Land"). The Land, together with the improvements located thereon, are collectively referred to as the "Leased Premises."

WHEREAS, Lessee and Assignee are executing this Consent and Assignment in connection with that certain Asset Purchase Agreement, dated as of July 25, 2019, by and among Lessee, Assignee, and the other parties thereto (the "Purchase Agreement"), pursuant to which, subject to the terms and conditions set forth therein, Assignee will purchase the assets of Lessee described in the Purchase Agreement, including the Lease;

WHEREAS, simultaneously with the closing of the transactions contemplated by the Purchase Agreement, the parties mutually desire (a) that Lessee assign all of its right, title, and interest in, under and to the Lease to Assignee, and (b) that Lessor consent to the assignment contemplated hereby, all on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual terms and conditions herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Effective Date. For all purposes under this Assignment and Consent, the term "Effective Date" shall mean that date, if any, on which the closing of the transactions contemplated by the Purchase Agreement is consummated.
2. Assignment. Effective as of the Effective Date, Lessee hereby assigns, transfers and sets over unto Assignee all of Lessee's right, title and interest in, under and to (i) the Lease and (ii) any prepaid rentals, security deposits, operating expense reimbursements and/or offsets or credits thereunder. Lessee will deliver possession of the Leased Premises to Assignee on the Effective Date.
3. Release; Assumption of Lease. Effective as of the Effective Date, Lessor irrevocably releases Lessee from any and all covenants, duties, obligations, or liabilities arising from or relating to the Lease that arise from or relate to periods after the Effective Date. Effective as of the Effective Date, Assignee hereby assumes obligations accruing after the Lease.

Exhibit A

4. Consent to Assignment. Effective as of the Effective Date, Lessor hereby consents to the assignment of the Lease as provided in this Assignment and Consent. Effective as of the Effective Date, Lessor acknowledges and agrees that (i) Lessee has fully and properly performed all of Lessee's covenants, duties, and obligations under the Lease, including the payment of rent, (ii) neither Lessor nor Lessee is in breach or default of any term, covenant or condition of the Lease nor does any state of facts exist that, either with the passage of time or the giving of notice, or both, would result in a breach by either Lessor or Lessee of their respective obligations under the Lease, and (iii) the Lease is in full force and effect.
5. Notices. As of the Effective Date, the notice address for the Lessee under the Lease shall be as follows:

T Aero II, Ltd.
7815 Karl May Dr.
Waco, Texas 76708
Attention: William A. Meyer

6. Counterparts. This Assignment and Consent may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Facsimile signatures or .pdf copies shall be deemed the same as originals.
7. Successors. Except as herein otherwise provided, this Assignment and Consent shall be binding upon and inure to the benefit of the parties, and their respective heirs, executors, administrators, successors, and assigns.

[Signature Page Follows]

EXECUTED Effective as of the Effective Date.

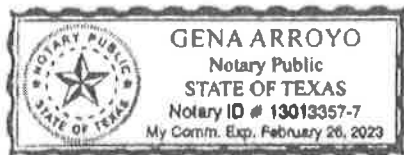
LESSOR:

**ECTOR COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF TEXAS
BY ITS COMMISSIONERS**

By: [Signature]
Name: Debi Hays
Title: Ector County Judge

THE STATE OF TEXAS §
 §
COUNTY OF Ector §

SUBSCRIBED AND SWORN TO BEFORE ME by
Debi Hays, on this the 23rd day
of September, 2019, TO CERTIFY WHICH WITNESS MY HAND AND SEAL OF OFFICE.



[Signature]
Notary Public, State of Texas

[Signature Page to Assignment of Lease and Lessor Consent]

LESSEE:

WILDCATTER AVIATION LLC, a Texas limited liability company

By: [Signature]
Name: Robert C Fair
Title: President

THE STATE OF TEXAS §
 §
COUNTY OF Ector §

SUBSCRIBED AND SWORN TO BEFORE ME by
ROBERT FAIR, on this the 12th day
of September, 2019, TO CERTIFY WHICH WITNESS MY HAND AND SEAL OF OFFICE.

[Signature]
Notary Public, State of Texas



[Signature Page to Assignment of Lease and Lessor Consent]

ASSIGNEE:

T AERO II, LTD., a Texas limited partnership

By Billy Meyer, Its General Partner

By: [Signature]

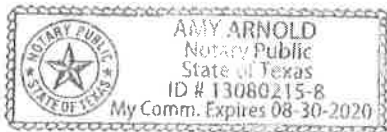
Name: Billy Meyer

Title: President

THE STATE OF TEXAS §

COUNTY OF Travis §

SUBSCRIBED AND SWORN TO BEFORE ME by
William A Meyer, on this the 18 day
of September 2019, TO CERTIFY WHICH WITNESS MY HAND AND SEAL OF OFFICE.



[Signature]
Notary Public, State of Texas

[Signature Page to Assignment of Lease and Lessor Consent]

FIRST AMENDMENT TO LEASE AGREEMENT

This Amendment to Lease Agreement (this "Amendment"), dated September __, 2019, is made by and between ECTOR COUNTY ("Lessor"), and T AERO II, LTD., a Texas limited partnership ("Lessee").

RECITALS:

A. Lessee and Lessor are executing this Amendment in connection with the that certain Asset Purchase Agreement dated as of July 25, 2019, by and among Lessee, Wildcatter Aviation LLC ("Original Lessee"), and the other parties thereto (the "Purchase Agreement").

B. Effective October 1, 2016, Lessor and Original Lessee entered into that certain Commercial Lease Agreement (the "Lease") covering that certain real property situated in Section 46, Block 42, T-1-S, Texas and Pacific Railway Company Survey, Ector County, Texas on the Odessa Schlemeyer Files, as more fully described in Exhibit A attached to the Lease (the "Land"). The Land, together with the improvements located thereon, are collectively referred to as the "Leased Premises."

C. Lessee is the successor in interest to Original Lessee with respect to the Lease.

D. Lessor and Lessee now desire to amend the Lease as set forth hereinafter.

AGREEMENT:

NOW, THEREFORE, for and in consideration of the premises, Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. Recitals; Use of Defined Terms. The Recitals are incorporated into the body of this Amendment by this reference. Terms with initial capital letters that are used in this Amendment but are not defined herein shall have the meanings ascribed to them as provided in the Lease.

2. Effectiveness. The effectiveness of this Amendment is subject to the occurrence of the closing of the transactions contemplated by the Purchase Agreement (the "APA Closing"). The effective date of this Amendment shall be the date of the APA Closing (the "Amendment Effective Date"). If the Purchase Agreement is terminated in accordance with its terms, this Agreement shall be null and void.

3. Lease Term. From and after the Amendment Effective Date, Section 3.01 (b) of the Lease is amended and restated in its entirety as follows:

(b) This Lease may be renewed upon mutually negotiated and accepted terms and conditions for five (5) additional five year periods on the same Terms as noted herein.

Any amendments to the Lease Terms as stated in this document must be mutually agreed on and signed by all Parties.

4. **Landlord Subordination.** From and after the Amendment Effective Date, Article XIX is amended to add the following:

Section 19.11 Lessor subordinates its landlord lien in favor of First National Bank of Central Texas (hereinafter referred to as "Bank") in the event of default by Lessee on a loan provided by Bank to Lessee, for the improvements described herein, made to the Land, and for the further purpose of granting the Bank the right, subject to the approval of Lessor, which approval shall not be unreasonably withheld, to sublease the Land and all improvements thereto to another party in the event of default of Lessee, with a term beginning upon the execution of an agreement with Lessor and the agreement terminating upon satisfaction of the Bank loan by Lessee, not to exceed the term of this Agreement.

5. **Miscellaneous.**

(a) Except as modified by this Amendment, the Lease is in full force and effect and has been not modified or amended in any other fashion whatsoever, and the Lease, as so modified, is hereby adopted, confirmed and ratified by the parties hereto. Furthermore, except as modified by this Amendment, the Lease shall not be modified or amended without the mutual written consent of the parties to this Amendment. To the extent the terms of this Amendment are inconsistent with the terms of the Lease, the terms of this Amendment shall govern and control.

(b). This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. No provision of this Amendment that is held to be inoperative, unenforceable or invalid shall affect the remaining provisions, and to this end all provisions hereof are hereby declared to be severable. Time is of the essence of this Amendment.

(c) This Amendment may be executed in a number of identical counterparts, and a telecopy, facsimile or e-mail (.pdf) transmission shall be binding on the party or parties whose signatures appear thereon. If so executed, each of such counterparts is to be deemed an original for all purposes, and all such counterparts shall, collectively, constitute one amendment, but in making proof of this Amendment, it shall not be necessary to produce or account for more than one such counterpart. Each party represents to the other party that (i) it has the full power and authority to enter into and execute this Amendment, and (ii) any consents or approvals from any third parties that are required for such party to enter into this Amendment have been obtained.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Amendment as of the date first above written,

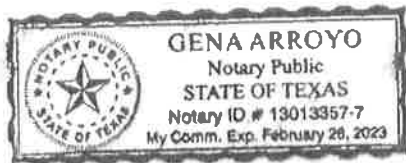
LESSOR:

**ECTOR COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF TEXAS
BY ITS COMMISSIONERS**

By: [Signature]
Name: Debi Hays
Title: Ector County Judge

THE STATE OF TEXAS §
 §
COUNTY OF Ector §

SUBSCRIBED AND SWORN TO BEFORE ME by
Debi Hays, on this the 23rd day
of September, 2019, TO CERTIFY WHICH WITNESS MY HAND AND SEAL OF OFFICE.



[Signature]
Notary Public, State of Texas

IN WITNESS WHEREOF, Lessor and Lessee have executed this Amendment as of the date first above written.

LESSEE:

T AERO II, LTD., a Texas limited partnership

By Billy Meyer, Its General Partner

By: 

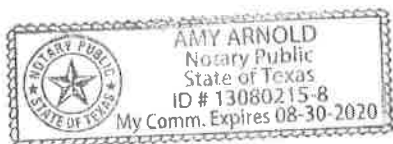
Name: Billy Meyer

Title: President

THE STATE OF TEXAS §

COUNTY OF Travis §

SUBSCRIBED AND SWORN TO BEFORE ME by
William A. Meyer, on this the 19 day
of September 2019, TO CERTIFY WHICH WITNESS MY HAND AND SEAL OF OFFICE.



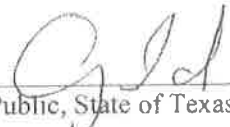

Notary Public, State of Texas

Exhibit
B

ODESSA-SCHLEMEYER AIRPORT

GROUND LEASE AGREEMENT

This agreement is entered into between the County of Ector, Texas, acting through Odessa-Schlemeyer Airport, ("OSA"), and Charlie Grisham-C.R.G. Electric, Inc/CRG Boiler Systems, ("Lessee").

RECITALS

1. The County of Ector is established under the laws of the State of Texas.
2. The County of Ector owns and operates through the Odessa-Schlemeyer Airport, land and certain aviation facilities known as "Odessa-Schlemeyer Airport."
3. OSA desires to lease certain lands at Odessa Schlemeyer Airport for aviation purposes as hereinafter defined, and Lessee desires to lease from OSA for a term of years the hereinafter defined premises specifically to hangar and store aircraft.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained to be kept and performed by the parties hereto and upon the provisions and conditions hereinafter set forth, OSA and Lessee do hereby agree as follows:

ARTICLE I

Definitions

Section 1.1 Definitions. Throughout this Agreement, the following words shall have the following meanings, respectively, unless the context clearly shall indicate some other meaning:

- a. Agreement means this lease Agreement between OSA and Lessee;
- b. Airport means Odessa-Schlemeyer Airport
- c. Airport Improvements means those improvements identified on an approved Airport Layout Plan;
- d. EPA means the United States Environmental Protection Agency and all federal, state or local agency, or governmental entity, succeeding to or being delegated with its jurisdiction, functions or responsibilities;
- e. FAA means the Federal Aviation Administration of the United States, or any federal agency succeeding to its jurisdiction or function;
- f. FAR means Federal Aviation Regulations and shall include, but not be limited to, all regulations, policies, statements and directives promulgated or issued by the FAA;
- g. Governmental Requirements means all federal, state and local laws, ordinances, rules regulation, policies and procedures, security plans, standards, and rulings, including, but not limited to, all additions and amendments now in effect or hereinafter enacted, as may be imposed by the FAA, TSA or any other governmental entity succeeding to the jurisdiction, functions, or responsibilities of either, Odessa-Schlemeyer Airport; the County of Ector; the State of Texas, or other governmental entities to Lessee's use of the Airport and operation/utilization of the Leased Premises and improvements thereon.
- h. Leased Premises means the land area described and illustrated on Exhibit "A".
- i. Leasehold Improvement means all improvements made by the Lessee (s) to the Leased Premises.
- j. Term means the period of time that this Agreement shall be in effect, as set forth in Sections 2.1 and 2.2;
- k. TSA means the Transportation Security Administration of the United States, or any federal agency succeeding to its jurisdiction or function.

Exhibit B

ARTICLE II

Term

Section 2.1 Term of Agreement. The Term of this Agreement shall be for forty (40) years, commencing on February 2013, and expiring on January 2053, unless otherwise terminated or cancelled as provided herein.

Section 2.2 Survival of Obligations. All obligations under this Agreement which have been incurred by Lessee, or with respect to which Lessee shall be in default, shall survive any termination or cancellation of this Agreement, unless waived or released in writing by OSA.

Section 2.3 Option to Extend. During the period commencing one (1) year prior to the expiration date of this Agreement and ending one hundred twenty (120) days prior to the expiration date of this Agreement ("first option period"), Lessee shall have the option to extend the Term of this Agreement, for one (1) extended period of five (5) years, and during the period commencing one (1) year prior to the expiration date of the first extended period and ending one hundred twenty (120) days prior to the expiration date of the first extended period ("second option period") Lessee again shall have the option to extend the term of this Agreement for one (1) additional extended period of five (5) years, both options to extend being subject to the following terms and conditions:

- a. Lessee shall not be in default of this Agreement;
- b. Lessee shall deliver timely written notice of its exercise of the option to OSA;
- c. All terms and conditions including rental rates, fees and charges then applicable to this Agreement shall remain in full force during the extended term period.

Section 2.4 Surrender of Possession. Except as otherwise expressly provided in this Agreement, at the expiration or sooner termination of the Agreement, or any extension hereof Lessee agrees to surrender possession of Leased Premises peacefully and promptly to OSA subject to the terms of Article VI Section 6.3 (b).

Section 2.5 Holding Over. If Lessee shall hold over after the termination of this Agreement, OSA, at its sole discretion, may allow Lessee to remain on the Leased Premises on a month-to-month basis as a tenant at will. During such tenancy, Lessee shall pay to OSA rentals, fees and charges at a rate set by OSA at the time the election to hold over is exercised by Lessee. Lessee shall be bound by all of the remaining provisions of this Agreement during any hold over tenancy.

Section 2.6 Lease Expiration. At the end of the Term, Lessee shall immediately and peaceably vacate the leased premises. Any and all improvements constructed by Lessee on the Leased Premises, including buildings, hangars, or other structures, shall become the property of OSA, unless removed in accordance with Section 6.3 herein. Lessee agrees to execute any and all documents necessary to convey title to any such improvements to OSA at said time.

ARTICLE III

Rentals, Fees, and Charges

Section 3.1 Initial Rental Rate. From the commencement date of this Agreement, Lessee shall pay, in advance to OSA, the annual base ground rental rate of Eight and a Half Cents (\$0.085) per square foot. The Leased Premises contain 100x100=10,000 square feet for an initial annual rental of \$ 850.00. Lessee shall pay a pro rata amount for any possession of the Leased Premises for less than one (1) year. The first rental payment shall be made by Lessee on or before the commencement date hereof and all subsequent annual rentals shall be paid in advance on or before the 1st day of February of each year of the Term.

Section 3.2 Subsequent Rental Rate. Effective on each February 1st during the Term of this agreement, the base ground rental rate shall be increased based upon the percentage increase in the National Consumer Price Index ("CPI") as published by the United States Department of Labor, Bureau of Labor Statistics, or successor agency or entity. The annual base ground rental rate shall be adjusted to the nearest penny (\$0.01).

Section 3.3 Rate Adjustment-Limitation. In any event, the rental rate for any succeeding rental period shall not be less than the rental rate established for the preceding rental period nor shall the increase be greater than ten percent (10%) in any one year.

Section 3.4 License Contingent Upon Payment. The grant of the rights, licenses, facilities, services and privileges to Lessee under this Agreement, in each case, shall be subject to the full and timely payment of the rentals, fees and charges required to be paid by Lessee hereunder.

Section 3.5 Landlord's Lien. OSA shall have the first lien, paramount to all other, on every right and interest of Lessee in this Agreement, on all improvements, equipment and fixtures to the Leased Premises. The lien is granted for the purpose of securing the payment of rentals, fees, charges, taxes, assessments, liens, penalties and damages herein covenanted to be paid by Lessee, and for the purpose of securing the performance, all and singular, of the covenants, conditions and obligations of this Agreement to be performed and observed by Lessee. This lien shall be in addition to all rights of a landlord given under the laws of the State of Texas. Aircraft stored on the Leased Premises are specifically excluded from this lien.

Section 3.6 Place of Payments. All sums payable by Lessee hereunder shall be delivered to :

Ector County Auditor's Office
1010 E. 8th St. Rm.# 520
Odessa, Tx 79761

Section 3.7 Delinquencies. In addition to any remedy available to it hereunder, OSA may impose as additional rent a delinquency charge on all overdue payments, at the rate of eighteen percent (18%) per annum or the then maximum rate allowed by law, if greater.

Section 3.8 Utility Service. Lessee, at its own expense, shall be responsible for the installation, relocation, modification and maintenance of all utility services on the Leased Premises. Lessee shall pay as the same becomes due, all utilities and other charges incurred in the operations, maintenance, use, occupancy, repair and upkeep of the Leased Premises and the improvements located thereon.

ARTICLE IV

Lessor's Grants; Reservations

Section 4.1 Lease. OSA hereby offers and leases to Lessee, and Lessee hereby accepts and leases from OSA, the Leased Premises for the aviation purposes set forth in Section 5.1 hereof for the Term of this Agreement, subject to the provisions set forth herein. Lessee accepts the Leased Premises in the condition existing at the commencement of this Agreement.

Section 4.2 Aviation Easement. OSA also reserves for itself, and the County and its licensees, an aviation easement in, over and across the air space above the Lease Premises and the unrestricted right to subject the Leased Premises to such Airport noise and vibration as may result from the flight of aircraft, warm up of engines, testing of engines or motors and other aviation related activities. OSA reserves the right to take such action as may be necessary to protect the aerial approaches of the Airport against obstruction in accordance with 14 C.F.R. Part 77 and other applicable standards or Governmental Requirements, together with the right to prevent Lessee or any other person from erecting or permitting

to be erected any antenna, equipment, building or other facility or structure on the Airport (other than any buildings to be constructed in compliance with the plans and specifications approved pursuant to Article VI hereof), which would conflict with such standards and Governmental Requirements.

Section 4.3 Reservation of Mineral Rights. OSA reserves all right, title and interest in and to all minerals in, on or under the Leased Premises. Lessee shall not engage in any mining or drilling activities in, on or under the Leased Premises during the Term of this agreement. "Minerals" as used herein shall mean all mineral substances and deposits whether solid, gaseous, or liquid.

Section 4.4 Quiet Enjoyment. Unless Lessee shall have defaulted in his obligations hereunder, he shall have quiet enjoyment of the Leased Premises. Provided, however, OSA makes no representations or warranties, either express or implied, as to the condition of the Leased Premises or that they will be suitable for Lessee's purposes and needs. OSA reserves the right to further develop, improve, rehabilitate, repair, reconstruct, alter and expand the Airport and all roadways, parking areas, terminal facilities, runways, taxiways and other aircraft operating areas as it may reasonably see fit, free from any and all liability to Lessee for damages of any nature whatsoever to Lessee occasioned during the making of improvements, repairs, alterations, reconstructions and additions to the Airport unless said liability arises from the solely negligent acts of OSA, its agents, and contractors.

Section 4.5 No Joint Venture or Partnership. This Agreement shall not be deemed or construed (a) to create any relationship of joint venture or partnership between OSA and Lessee; (b) to give OSA any interest in the business of Lessee; or (c) to grant to Lessee any powers as an agent or representative of OSA or the County, for any purpose or to bind OSA or the County.

Section 4.6 Termination of Agreement for Airport Purposes. Lessee agrees and understands that, by reason of the broad public interest in the efficient maintenance, operation and development of the Airport, OSA hereby expressly reserves the right to terminate this Agreement upon a determination by OSA that the Leased Premises are needed for permanent Airport construction, or development, or improvements. Such construction, development or improvements shall be for airport and or aviation purposes only.

In the event that permanent Airport construction, development of improvement necessitates termination of this Agreement and the acquisition of Lessee's Leasehold Improvements and interest in the Leased Premises, Lessee shall surrender the Leased Premises to OSA within ninety (90) days from receipt of OSA's written notice of its intent to terminate the Agreement and acquire Lessee's Leasehold Improvements and interest in the Leased Premises. OSA shall use its best efforts to provide Lessee with replacement premises at the Airport at the rates not to exceed those provided in this Agreement and under the same terms and conditions as this Agreement or the then current lease agreement in use by OSA subject to the same periods of duration and renewal options of this Agreement. Relocation benefits shall be paid by OSA to Lessee in the manner required by applicable law.

In consideration of Lessee's surrender of the Leased Premises, Lessee shall receive, as complete compensation for Lessee's interest in the Leased Premises and Lessee's improvements thereto, a sum of money equivalent to the fair value of any improvements of Lessee acquired by OSA. Determination of the fair value of the improvements shall be made by the appraisal methods known as the "market comparison approach". The appraisal method known as the "income approach" shall not be used in the valuation of the improvements, and Lessee hereby acknowledges that it shall not be entitled to damages due to loss of any type of income caused by the termination of this Agreement as described in this Section.

ARTICLE V

Use

Section 5.1 Use of Leased Premises. The use of the Leased Premises shall be to store, maintain, Build, rebuild, restore and service aircraft. Aircraft maintenance and overhaul may be performed either by Lessee or by an FAA licensed A&P mechanic. Lessee also shall be entitled to construct improvements for the stated aviation purposes, subject to the conditions hereinafter set forth. Lessee shall have the non-exclusive license to use, in common with others, the access roads or designated taxiways or taxi lanes as aircraft operations will safely permit for purposes of ingress and egress to the Leased Premises and the public facilities of the Airport. OSA reserves the right to close any means of ingress and egress, so long as other reasonable means in ingress and egress to the Leased Premises are available to Lessee.

Section 5.2 General Use of the Airport. Subject to terms, conditions and covenants hereof, and provided that Lease is not in default of this Agreement, Lessee shall be entitled to use, on a non-exclusive basis, public areas of the Airport including runways, taxiways, taxi lanes, aprons, lighting, navigation aids, and other facilities necessary for the operation of the aircraft.

Section 5.3 Fueling Operations. Lessee shall not engage in or permit fueling operations on the leased premises, except as allowed under applicable Governmental Requirements.

Section 5.4 Safety and Security Plan Lessee, at its sole cost and expense, shall comply with any Airport safety and security plan established by OSA. Lessee shall require all invitees entering the Leased Premises to comply with any such plan and all applicable Governmental Requirements pertaining to security and safety.

ARTICLE VI

Improvements to the Premises

Section 6.1 Title to Existing Improvements. Title to all improvements (except improvements owed by OSA or County) currently located on the Leased Premises and Leasehold Improvements constructed by the Lessee during the Term of this Agreement and any extended period. Title to any such improvement shall vest with OSA upon expiration of this Agreement as set forth in Section 2.5 herein. Lessee shall not sell, convey, mortgage, gift or devise the Leasehold Improvements without OSA consent, of which reasonable consent shall not be withheld.

Section 6.2 Removal or Alteration of Airport Structures on Leased Premises. Lessee may not remove or otherwise alter any improvement to the Leased Premises owned by OSA or the County without Prior written consent of OSA. Lessee may request permission in writing to remove or alter such Improvements.

Section 6.3 Removal or Alteration of Improvements on Leased Premises. Any and all improvements constructed by Lessee on the leased Premises, including buildings, hangars, or other structures, shall become the property of OSA upon termination of the Agreement. Lessee shall not remove or alter any Leasehold Improvement without OSA consent. Removal of any building, hangar, or other structure constructed on the Leased Premises by Lessee during the term of this Agreement shall require the additional consent of the Ector County Commissioners Court. The entire cost of any removal, storage, maintenance, transportation and/or disposal of any Leasehold Improvement shall be borne by Lessee. Upon termination or expiration of this Agreement, OSA may require Lessee to remove Lessee's Improvements. In such event, Lessee shall restore the Leased Premises to an unimproved condition at Lessee's sole cost and expense. If Lessee fails to do so, OSA may, at its option, cause the improvements to be removed and the Leased Premises restored at the sole cost and expense of the Lessee.

Section 6.4 Construction of New Improvements. Lessee shall have the right to construct improvements on the Leased Premises consisting of hangars, ramps, and other such improvements. Lessee shall not construct any improvements to the Leased Premises without submittal to, and approval of, all plans and specifications by OSA as hereinafter set forth. All plans and specification for new improvements on the Leased Premises shall be prepared by Lessee in compliance with all Governmental Requirements. Lessee shall furnish to OSA copies of permits and licenses needed for construction. A construction application, in a form prepared by Authority, together with plans and specifications, shall be submitted by Lessee to OSA for approval. Thereafter, OSA shall have thirty (30) days after receipt within which to approve the plans and specifications, or to notify Lessee of any objections thereto. Each objection and the ground therefore, shall be stated separately. Lessee shall have a reasonable time thereafter within which to make any revisions to remove OSA's objections. Upon OSA's receipt of the final plans and specifications, OSA shall have thirty (30) days within which to approve or reject Lessee's revised proposal. After OSA's approval of the final plans and specifications, Lessee may proceed with construction. Construction shall be substantially in accordance with the approved plans and specifications. Upon completion of construction, Lessee shall furnish to OSA one (1) complete set of reproducible "as built" plans and specifications in digital format.

Section 6.5 Adverse Effect of New Improvements. New improvements on the Leased Premises shall not be constructed in a manner which may adversely affect existing improvements, other Airport tenants, Airport property contiguous to the Airport.

Section 6.6 Inspection. OSA and/or the County, and their authorized representatives, shall have the right to inspect the Leased Premises during all reasonable hours, or in case of emergency, at any time.

Section 6.7 Weight Limitations. Lessee hereby specifically acknowledges that the roadways, taxi lanes, taxiways, ramps and aprons located on the Airport wherein the Leased Premises are located are stressed for designated maximum gross weights. Lessee shall be responsible for all damages or destruction caused by utilization of said Airport roadways, taxi lanes, taxiways, ramps and aprons by aircraft or vehicles operated by Lessee or invites in excess of the maximum gross weights.

Section 6.8 Minimum Hangar Standards.

- a. **Outside Storage.** Lessee shall not store any items on the exterior of the hangar structure, except as may be specifically permitted by this agreement or with the prior written permission of the Odessa-Schlemeyer Airport Director. Aircraft in an unairworthy condition or disabled, disassembled, or partially assembled aircraft, parts or other aircraft components thereof, shall not be parked, stored or left standing for a period of excess of thirty (30) days on the exterior areas or portions of the Leased Premises. Approval of the Airport Director is required if the thirty (30) day period allowed will be exceeded.
- b. **Exterior Improvement Appearance.** Lessee shall maintain the exterior appearance of the Leasehold Improvements on the Leased Premises in a proper state of repair and shall specifically prevent, repair and paint any visible peeling, chipped, faded or rusted areas. Lessee shall re-skin the exterior surfaces of a hangar, if the skin is penetrated, using at a minimum 26-gauge metal siding with a twenty (20) year paint guarantee. If the exterior has not been penetrated and rust can be overlaid, damaged areas shall be repaired with corrosive inhibitor coating and painted to match the hangar exterior. Lessee shall be deemed in inhibitor coating and painted to match the hangar exterior. Lessee shall be deemed in conformity with this maintenance standard if Lessee has consulted, and complied, with reasonable directives from OSA. Compliance with this maintenance standard is a prerequisite for OSA approval of (i) Lessee's option to extend, and/or (ii) a new sublease agreement for the Leased Premises.

ARTICLE VII

Maintenance and Care of Leased Premises

Section 7.1 Lessee's Obligations. Lessee shall perform all maintenance, including but Not limited to, all repairs relative to heating, electrical, plumbing and air conditioning systems; roofs; walls; structure; structural improvements; paving; and any ramp on the Leased Premises. Lessee, at all times, shall keep in a clean and orderly condition and appearance all the Leased Premises and all of Lessee's fixtures, equipment and personal property which are located thereon. Lessee shall not commit or suffer to be committed any nuisance on the Leaded Premises. Lessee shall conduct Lessee's operations in an orderly and proper manner so as not to annoy, disturb, or be offensive to others at the Airport. Lessee shall take all reasonable measures to keep the sound level of Lessee's operations as low as reasonably possible. Lessee shall not permit the accumulation of any rubbish, trash or other waste material. Except in tanks and in the manner approved by appropriate governmental authorities, Lessee shall not store any gasoline or other material likely to give off fumes or gases or any material likely to constitute a fire, safety or security hazard on the Leased Premises. Lessee shall not cause or permit any hazardous or flammable substance to be used, stored, generated or disposed of on the Airport or Leased Premises, except as otherwise provided herein.

ARTICLE VIII

Indemnity and Insurance

Section 8.1 Indemnity-General. Lessee shall indemnify, protect, defend and hold completely harmless, OSA, the County, and its officers, agents and employees from and against all liability, losses, suits, claims judgments, fines or demands arising from injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including attorney fees, court cost, and expert fees). Of any nature whatsoever arising out of or incident to this Agreement, Lessee's use or occupancy of the Leased Premises, the Airport, or the rights, licenses, or privileges granted Lessee herein, or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regarding of where the injury, death or damage may occur, unless such injury, death or damages is caused by the sole negligence of OSA. OSA shall give notice to Lessee of any such liability, loss, suit, claim or demand, and Lessee shall defend the same using counsel reasonable acceptable to OSA. The provisions of this section shall survive the expiration or early termination of this Agreement.

Section 8.2 Insurance.

- a. Lessee shall maintain in force during the Term, and any extended Term, public liability and insurance in comprehensive form including but not limited to airport premises liability and aircraft liability with such coverage and limits as reasonably may be required and approved by OSA from time to time, but in no event for less than in minimum amounts equal to the liability limits applicable to municipalities under the Texas Governmental Tort Claims. OSA, the Ector County, and their officers, employees, and or agents shall be named as additional insured on said policy up to, but not exceeding, the statutory liability limits. This requirement should not be construed as limiting the ability of Lessee to obtain additional liability insurance in excess of the statutory liability amounts, provided that OSA, the County of Ector, and their officers, employees, and/or agents are not named as additional insured to the extent any liability coverage in excess of the statutory liability limits is procured by Lessee.
- b. Concurrent with the execution of this Agreement, Lessee shall provide proof of insurance by providing a certificate of Lessee's insurance coverage. The certificate (s) of insurance shall provide that (1) the insurance coverage shall not be cancelled, changed in coverage, or reduced in limits without at least thirty (30) days prior written notice to OSA; (2) the policy shall be considered primary as regard any other insurance coverage OSA or the County may possess, including any self-insured retention or deductible OSA or the County may have and any other insurance coverage OSA or the

County may possess shall be considered excess insurance only; and (3) deductibles shall not exceed five thousand dollars (\$5,000.00).

- c. If the insurance coverage required herein is cancelled, changes in coverage or reduced in limits, Lessee shall, within thirty (30) days, but in no event later than the effective date of cancellation, change or reduction, provide to OSA a certificate showing that insurance coverage has been reinstated or provided through another insurance company. Upon failure to provide such certificate, and Lessee's failure to respond to a written notice from OSA, OSA may in addition to all its other remedies exercise OSA's rights as provided in the default provisions of this Agreement.

ARTICLE IX

Governmental Requirements

Section 9.1 Governmental Requirements- General. Lessee shall comply with all Governmental Requirements applicable to Lessee's use of the Airport and operation/utilization of the Leased premises and improvements thereon. Lessee shall also require its guests, invitees, and those doing business with it to comply with all applicable Governmental Requirements.

Section 9.2 No Liability for Exercise of Powers. Neither OSA nor the County shall be liable to Lessee for any diminution or deprivation of Lessee's rights which may result from the proper exercise of any power to preserve OSA or the County in this Agreement. Lessee shall not be entitled to terminate this Agreement by reason thereof, unless the exercise of such power shall substantially interfere with Lessee's rights hereunder so as to constitute a termination of this Agreement by operation of law.

Section 9.3 Non-discrimination. Lessee, Lessee's successors in interest and assigns, as a part of the consideration hereof, do covenant and agree hereby, as a covenant running with the land, that in the event facilities are constructed, maintained or otherwise operated on property described in this Agreement for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provisions of similar services or benefits, Lessee shall remain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49 CFR Part 21, (Non-discrimination in Federally-Assisted Programs of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964), Part 26 (Participation by Minority Business Enterprises and DOT Programs) and Part 27 (Nondiscrimination on Basis of Handicap and Programs and Activities Receiving or Benefiting from Federal Assistance) and the regulations promulgated thereunder or may hereafter be amended.

Section 9.4 Taxes and Other Governmental Charges. Lessee shall pay, as the same become due, all taxes and governmental charges of any kind whatsoever that any time lawfully may be assessed or levied against or with respect to Lessee's Leasehold Improvements, including any ad valorem or personal property tax that may be assessed against any leasehold interest or estate created by this Agreement. In good faith and with due diligence, as permitted by law, Lessee may contest any such taxes or governmental charges.

Section 9.5 Domestication. If Lessee is a foreign corporation, Lessee shall domesticate corporate status within the State of Texas. Lessee shall obtain a certificate of good standing from the Secretary of the State of Texas and provide to OSA such evidence of good standing as OSA from time to time reasonably may require.

- d. Lessee shall (1) mortgage, pledge or encumber, any portion of its interest in this Agreement; (2) subject the Leased Premises to any lien of whatsoever nature, or (3) transfer, sublease or assign, either voluntarily or by operation of law, any portion of its interest in the Leased Premises, the Leasehold Improvements, or in this Agreement, except in accordance with the provisions hereof;
- e. Lessee shall terminate Lessee's corporate structure, except as permitted herein;
- d. Lessee shall substantially breach any term, provision, condition, obligation or covenant under this Agreement;
- e. Lessee shall abandon, desert, or vacate the Leased Premises voluntarily for a continuous period of ninety (90) days or more after a written notice served on Lessee. Abandonment shall be presumed by evidence of non-payment of rentals for a continuous period on ninety (90) days after due, plus non-occupancy of the Leased Premises.
- f. Lessee shall fail to comply with insurance requirements imposed in Section 8.2 hereof.

If Lessee commits an event of default as set forth in Subsection 10.1 (a) through (f) hereof, and such failure shall continue unremedied for thirty (30) days after OSA shall have given to the Lessee written notice specifying such default, then OSA may proceed in accordance with Section 10.2 of this Agreement; provided, OSA may grant Lessee (in writing) such additional time as reasonably is required to correct any such default if Lessee has instituted corrective action as is diligently pursuing the same.

Section 10.2 Remedies upon Lessee's Default and Failure to Cure. Whenever an event of default of Lessee shall occur, and upon Lessee's failure to cure after notice of default is given as provided in Section 10.1 above, OSA may pursue any available right or remedy at law or equity, including:

- a. Termination. OSA may deliver to Lessee written notice of termination, specifying the date (which must be at least thirty (30) days after the date of mailing of the notice) upon which the Agreement will terminate. In the event of termination, Lessee's right to possession of the Leased Premises immediately shall cease. OSA may then reenter and take possession of the Leased Premises and Lessee forthwith shall surrender possession of Leased Premises. Upon termination of this Agreement, Lessee shall be liable for payment of:
 - 1. All sums accrued through the date of termination;
 - 2. The balance of all rentals required to be paid to Lessee;
 - 3. The reasonable costs incurred by OSA in terminating this Agreement, recovering possession of, and re-letting the Leased Premises, or any portion thereof; and
 - 4. The reasonable cost incurred by OSA to restore the Leased Premises or any portion thereof to the condition in which they originally were leased, ordinary wear and tear excepted.

All rentals received by OSA from re-letting the Leased Premises after the termination of this Agreement shall be credited against the Outstanding Rental Balance. The acceptance by OSA of any rentals from Lessee after the termination of this Agreement shall not reinstate this Agreement.

- b. Possession of Leased Property; Storage. If OSA takes possession of the Leased Premises upon Lessee's default, OSA may expel Lessee and those claiming through or under Lessee and remove their property. OSA may remove all of Lessee's property in or upon the Leased Premises and place such property in storage for the account, and at the sole expense, of Lessee.
- c. Cumulative Remedies. Each remedy available to OSA under this Section shall be cumulative and shall be in addition to every other remedy of OSA under this Agreement or existing at law or in equity.

Section 10.3 Nonwaiver. Neither the waiver by OSA of any breach by Lessee of any provision Hereof, nor any forbearance by OSA to seek a remedy for any such breach, shall operate as a waiver of any other breach by Lessee.

Section 10.4 Event of Default by OSA, Lessee's Remedies. OSA shall not be in default in the performance of any of its obligation hereunder until OSA shall have failed to perform such obligations for thirty (30) days or such additional time as is reasonably required to correct any such nonperformance, after notice by Lessee to OSA specifying wherein OSA has failed to perform any such obligation. Neither the occurrence nor existence of any default by OSA shall relieve Lessee of Lessee's obligation hereunder to pay rentals, fees and charges. However, Lessee may institute such action against OSA as Lessee may deem necessary to compel performance or recover Lessee's damages for nonperformance.

Section 10.5 Condemnation. If, at any time during the Term and any extended term, the Leased Premises or the Leasehold Improvements located thereon or any portion thereof shall be taken by exercise of the power of eminent domain by a governmental entity other than OSA or the County, the proceeds and awards in the condemnation proceedings shall be divided and rentals required hereunder shall be adjusted in such manner as shall be just and equitable. If OSA and Lessee are unable to agree upon a just and equitable division of proceeds and adjustment of rentals within thirty (30) days after rendition of any condemnation award, the matters then in dispute shall be submitted for determination by a court of competent jurisdiction. If the Leased Premises are taken wholly by condemnation, this Agreement shall terminate. Provided, valuation of Lessee's interest in the Leased Premises and any Leasehold Improvements thereon shall be determined in the manner set forth in Section 4.6 entitled Termination of Agreement for Airport Purposes.

ARTICLE Transfer of Interest

Section 11.1 Assignments by OSA and the County. OSA and the County may transfer or assign this Agreement to any successor in interest to whom the Airport may be sold or assigned without consent of Lessee; however, the successor in interest shall execute and deliver to OSA, with a copy to Lessee, an instrument assuming the obligations of OSA and the County under this Agreement.

Section 11.2 Assigning, Subletting and Encumbering. Lessee shall not assign, sublet or encumber the Leased Premises, or any Leasehold Improvements thereon, without OSA's prior written consent. If Lessee shall be other than an individual, for purposes of this section, the transfer of the majority of the shares of the Lessee (including any combination of shares that are equivalent to a majority interest) or any other evidence of majority ownership interest or control in the Lessee's enterprise, shall be deemed an "assignment."

Section 12.1 Rules of Construction. Throughout this Agreement, unless the context clearly shall require otherwise:

- a. The singular includes the plural and vice versa;
- b. The words "and" and "or" shall be both conjunctive and disjunctive;
- c. The words "all" and "any" mean "any and all",

- d. The word "including" means "including without limitation".
- e. Reference to any exhibits shall mean exhibits attached to this Agreement which shall be deemed incorporated by reference; and
- f. Reference to articles or sections respectively shall mean articles or sections of this Agreement.

Section 12.2 Existence of Lessee Entity. All references in this Agreement to "corporations" and "corporate" shall include limited liability companies and limited partnerships, as appropriate. If Lessee is a corporation, Lessee shall maintain its corporate existence and shall not dispose of all or substantially all of its assets and shall not consolidate with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it. However, Lessee may, without violating the prohibition contained in this section, consolidate with or merge into another corporation, or permit one or more other corporations to consolidate with or merge into it, or sell or otherwise transfer to another corporation all of substantially all of its assets as an entity and thereafter dissolve. If the surviving or transferee corporation (a) assumes in writing all of the obligations of Lessee herein; (b) has net assets and capital (both paid in and surplus) at least equal to the net assets and capital of Lessee immediately prior to such consolidation merger, sale or transfer, and (c) is qualified to do business in Texas.

Section 12.3 Notice. All notices, certificates, statements, demands, request, consents, approvals, authorizations, offers, agreements, appointments, designations or other communication which may be or are required to be given by either party thereto to the other shall be deemed to have been given sufficiently on the fifth day following the day on which the same are mailed by registered or certified or priority mail, postage prepaid as follows, if to OSA or the County.

1010 E. 8th St
Odessa, Tx

and, if to Lessee:

OSA, the County, and Lessee, by written notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates or other communication shall be sent.

Section 12.4 Severability. In the event any provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, unless such holding shall materially and adversely affect the rights of either party as set forth herein.

Section 12.5 Entire Agreement: Modification. This Agreement expresses the entire understanding of OSA and Lessee concerning the leased Premises and all agreements of OSA and Lessee with each other concerning the subject matter hereof. Neither OSA nor Lessee has made or shall be bound by any agreement or any representation to the other concerning the Leased Premises or the subject matter hereof which is not set forth expressly in the Agreement. This agreement may be modified only by a written agreement of subsequent date hereto signed by OSA and Lessee.

Section 12.6 Execution of Counterparts. This Agreement simultaneously may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.7 Effect of Saturdays, Sundays and Legal Holidays. Whenever this Agreement requires any action to be taken on a Saturday, Sunday or a legal holiday, such action shall be taken on the first business day occurring thereafter. Whenever in this Agreement, the time within which any action is

required to be taken, or within which any right will lapse or expire, shall terminate on Saturday, Sunday or a legal holiday, such time shall continue to run until 11:59 p.m. on the next succeeding business day.

Section 12.8 Descriptive Headings: Table of Contents. The descriptive headings of the Sections of this Agreement and any Table of Contents annexed hereto are inserted or annexed for convenience of reference only and do not constitute a part of this Agreement, and shall not affect the meaning, construction, interpretation or effect of this Agreement.

Section 12.9 Choice of Law; Enforcement. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas. Whenever in this Agreement it is provided that either party shall make any payment or perform, or refrain from performing, any act or obligation, each such provision, even though not so expressed, shall be construed as an express covenant to make such payment or to perform, as the case may be such act or obligation.

Section 12.10 Force Majeure. Neither OSA nor Lessee shall be deemed in violation of this Agreement if it is prevented from performing any of the obligation hereunder by reason of embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellions, sabotage, or any other circumstances for which it is not responsible or which are not within its control, and the time for performance automatically shall be extended by the period the party is prevented from performing its obligations hereunder; however, these provisions shall not apply to the failure of Lessee to pay the rentals and other charges required hereunder.

Section 12.11 Recovery of Attorney's Fees and Costs. If either party shall bring any legal or equitable action against the other, the non-prevailing party shall pay the prevailing party's reasonable attorney's fees and costs incurred in such action and any appeal therefrom. For purposes of this section, "costs" shall include expert witness fees, court reporter fees, and courts costs.

Section 12.12 Binding Effect. This Agreement shall inure to the benefit of, and shall be binding upon, OSA and its successors and assigns, and upon Lessee and Lessee's respective heirs, devisees, personal representatives, successors, and assigns, if such assignment shall have been made in conformity with the provisions of this Agreement.

IN WITNESS WHEREOF, SRA AND Lessee have entered into this Agreement at Ector, Texas, on the 13th day of February, 2012.


Odessa-Schlemeyer Airport



Manager

(Seal)

ATTEST:



Linda Haney, County Clerk

Lessee

Subscribed and sworn to me before this _____ day of _____, 2012.

(Seal)

Notary Public

My Commission Expires: _____

COUNTY ENDORSEMENT

The County Court of Ector hereby authorizes the Odessa-Schlemeyer Airport to enter into the above lease agreement dated February 11, 2013, between Odessa-Schlemeyer Lessor, and Charlie Grisham, Lessee.

County of Ector

Steve M. Bell
County Judge

(Seal)
ATTEST:

J. M. Amey
County Clerk

ASSIGNMENT AND ASSUMPTION OF GROUND LEASE

This ASSIGNMENT AND ASSUMPTION OF GROUND LEASE (this “**Assignment**”) is made as of July 31, 2024 by and between T AERO II, LLC, a Texas limited liability company (“**Assignor**”), and ECTOR COUNTY, a Texas governmental entity (“**Assignee**”).

WHEREAS, by that certain Asset Purchase Agreement (the “**Purchase Agreement**”) dated July 31, 2024, by and between Assignor and Assignee, Assignor agreed to sell to Assignee all of Assignor’s rights in the Ground Lease (as described in the Purchase Agreement).

WHEREAS, the Purchase Agreement provides that Assignor shall assign to Assignee the Ground Lease effective as of October 1, 2024 (“**Effective Date**”). The Ground Lease, and Assignment of Lease and Lessor Consent originally assigning the Ground Lease to Assignor, are attached to the Purchase Agreement as Exhibits A and B (together with all amendments and modifications thereto, if any, the “**Lease**”), and Assignee shall assume all of the obligations of Assignor under the Ground Lease from and after the date of such assignment, and that Assignor and Assignee shall enter into this Assignment; and

WHEREAS, Assignee is also the original landlord under the Ground Lease.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto hereby agree as follows:

1. **Assignment**. Assignor hereby assigns, sets over and transfers to Assignee all of its right, title and interest in, to and under the Ground Lease effective as of October 1, 2024.
2. **Assumption and Indemnity**. Assignee hereby (a) assumes all liabilities and obligations of Assignor under the Ground Lease arising or accruing after the Effective Date, and (b) agrees to indemnify, defend and hold harmless Assignor from any and all damages, losses, costs, claims, liabilities, expenses, demands and obligations under or with respect to the Ground Lease, arising or accruing after the Effective Date. Assignor agrees to indemnify, defend and hold Assignee harmless for, from and against any and all damages, losses, costs, claims, liabilities, expenses, demands, obligations and judgments under or with respect to the Ground Lease incurred by Assignee in connection with all landlord obligations under the Ground Lease arising, accruing or occurring prior to the Effective Date.
3. **Landlord Consent**. Assignee is also the original landlord under the Ground Lease, and thus by its execution of this Assignment, Assignee consents to this Assignment by Assignor to Assignee, and to release Assignor from any further obligations in the Ground Lease as of the Effective Date.
4. **Miscellaneous**. This Assignment and the obligations of the parties hereunder shall survive the closing of the transaction referred to in the Purchase Agreement and shall be merged therein, shall be binding upon and inure to the benefit of the parties hereto, their respective legal representatives, successors and assigns and may not be modified or amended in any manner other than by a written agreement signed by the party to be charged therewith.

5. **Severability**. If any term or provision of this Assignment or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Assignment or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Assignment shall be valid and enforced to the fullest extent permitted by law.

6. **Governing Law**. This instrument shall be governed by and construed in accordance with the laws of Ector County and the State of Texas, without reference to the conflicts of laws or choice of law provisions thereof.

7. **Counterparts; Electronic Copies**. This Assignment may be executed by facsimile and/or other electronic means and/or in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Assignor and Assignee have signed and delivered this Assignment as of July 31, 2024.

ASSIGNOR:

T AERO II, LLC

By: _____

Printed Name: _____

Title: _____

Date: _____

ASSIGNEE:

ECTOR COUNTY

By: _____

Printed Name: _____

Title: _____

Date: _____

BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT

This Bill of Sale, Assignment and Assumption Agreement (this “**Agreement**”) is entered into this 31st day of July, 2024, by and between T AERO II, LLC, a Texas limited liability company (“**Seller**”), and ECTOR COUNTY, a Texas governmental entity (“**Buyer**”).

WHEREAS, Seller and Buyer have entered into that certain Asset Purchase Agreement dated effective as of July 31, 2024 (the “**Purchase Agreement**”), pursuant to which, among other things, Seller has agreed to sell and assign to Buyer, and Buyer has agreed to purchase and assume from Seller, all of Seller’s right, title and interest in the Assets (as defined in the Purchase Agreement).

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Definitions**. All capitalized terms used in this Agreement but not otherwise defined herein are given the meanings set forth in the Purchase Agreement.
2. **Sale and Assignment**. Seller hereby grants, bargains, transfers, assigns, conveys, and delivers to Buyer, its successors and permitted assigns, all of Seller’s right, title, and interest in and to the Assets set forth on Schedule 1 attached hereto.
3. **Excluded Property**. Notwithstanding anything in this Agreement to the contrary, the Assets do not include any Assets not identified in Schedule 1 hereto or in Section 2(a)-(d) of the Purchase Agreement.
4. **Terms of the Purchase Agreement**. Notwithstanding anything in this Agreement to the contrary, nothing contained in this Agreement will in any way supersede, replace, restate, amend, expand, or otherwise modify in any way any provision or limitation of the Purchase Agreement or any rights, obligations, representations, warranties, or remedies of the parties under the Purchase Agreement. This Agreement is being delivered pursuant to the Purchase Agreement to effect the transfer of the Assets pursuant to the Purchase Agreement, and it is subject to all of the terms, conditions and limitations set forth in the Purchase Agreement.
5. **Governing Law**. This Agreement is governed by and must be construed in accordance with the internal laws of Ector County and the State of Texas, without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction).
6. **Further Assurances**. Each of the parties hereto shall execute and deliver, at the reasonable request of the other party hereto, such additional documents, instruments, conveyances and assurances and take such further actions as such other party may reasonably request to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement.
7. **No Third-Party Beneficiaries**. The sole purpose hereof is to transfer and convey to Buyer the Assets and not to create third party beneficiary rights.

8. **Successors and Assigns.** This Agreement is binding upon and will inure to the benefit of the parties hereto and their respective successors and assigns.

9. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission will be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

SELLER:

T AERO II, LLC

By: _____

Printed Name: _____

Title: _____

Date: _____

BUYER:

ECTOR COUNTY

By: _____

Printed Name: _____

Title: _____

Date: _____



**ECTOR COUNTY, TEXAS
HUMAN RESOURCES DEPARTMENT**

**COUNTY ENGINEER
ECTOR COUNTY PUBLIC WORKS DEPARTMENT**

The prospective employee for this position will execute the following primary duties and must also have the following Knowledge, Skills, and Abilities (KSA):

PRIMARY DUTIES

- Responsible for efficient field operations in all activities related to maintaining all county roads, drainage improvements, rights-of-way, and county parks.
- Assists the Director with the design of and estimates for Capital Improvement Projects plus transportation improvements (culvert, ditch grades and minor roadway)
- Assists in ensuring compliance with all County policies and regulations, the local, state, and federal regulatory agency requirements and guidelines.
- Assists with developing the budget, approve expenditures, and ensure that expenses are within budget limits.
- Assists the department director to develop, implement, and maintain standard operating procedures for roadway systems, emergency response, workplace services and general department policies.
- Assists the department director in developing a comprehensive 5, 10, and 20-year preventative maintenance program for roads.
- Supervises all county road inspectors and surveyors.
- Provides information to the general public and development community by providing information regarding floodplain and storm water permitting and regulations.
- Responds to questions, complaints, and concerns received from developers, contractors, homeowners, and other customers pertinent to land development activities, applicable Federal, State, and County regulations and standards, erosion and sediment control requirements, and required corrective actions
- Maintains files of County roadway and drainage projects, plans, maps, or other archives and coordinates the archiving of all departmental documents.
- Performs all other related duties involved in the operation of the department as assigned or required.

KNOWLEDGE, SKILLS, & ABILITIES (KSA)

- Have a solid understanding of civil engineering, standard construction practices, materials, methods, and related codes.
- Knowledge of land development and environmental planning
- Knowledge of procurement rules and regulations and rules of Government contracting.
- Thorough knowledge of methods, materials, procedures, and equipment used in the maintenance and repair of local roads, parking lots, airport runways and taxiways, and alleys.
- Knowledge of Texas Manual on Uniform Traffic Control Devices (TMUTCD), OR, Ability to obtain Texas Work Zone Traffic Control and Flagger Certification within 180 days of employment with the County.
- Ability to read maintenance and construction blue prints/plans and understand road profiles and levels established to construct and maintain a road.
- Superior verbal and written communication skills
- Ability to use computer applications or other automated systems such as, spreadsheets, word processing, calendar, email and database software in performing work assignments.

- Ability to read, follow verbal and written instructions, and understand work orders and equipment manuals.
- Knowledge of budget planning.
- Ability to perform calculations to determine amount of materials to use, and labor, expenses.
- Ability to establish and maintain effective lines of communication with internal and external personnel and maintain a Texas driver's license applicable to job responsibilities and a good driving record.

QUALIFICATION REQUIREMENTS: Bachelor's Degree in Civil Engineering/Environmental or related field. A valid driver's license is required. State of Texas Licensed Professional Engineer with 5-10 years of progressive project management or supervisory experience or a combination of education and experience. Working knowledge of spreadsheet and word processing software. Excellent verbal and written communication skills. Advanced and effective interpersonal, training, negotiation, conflict resolution, and leadership skills.

7/16/2024

Ref. Job #xxx

LCA

LETTER OF TRANSMITTAL

ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING
521 North Texas
Odessa, Texas 79761
(432) 332-5058 • 580-8812
FAX (432) 332-8812

TO: Ector County

7613 W. Dunn

Odessa, Texas 79763

DATE:

7/1/24

JOB NO.

22-008

ATTENTION:

Mr. Jeff Avery

RE:

Oxy Low Carbon Ventures North Access Road
Winkler County & Ector County, Texas

Wheeler Road

☒ Delivered

☐ Picked Up

☐ Mailed

WE ARE SENDING YOU

☒ Attached

☐ Under separate cover via _____ the following items:

☐ Shop drawings

☐ Prints

☐ Plans

☐ Specifications

☐ Samples

☐ SWPPP

☐ Copy of letter

☐ Change Order

☐ Electronic File (☐ Read Only ☐ Dwg)

COPIES	DATE	NO.	DESCRIPTION
1			Worley Oxy Low Carbon Ventures North Access Road Paving and Drainage Improvements Book

THESE ARE TRANSMITTED as checked below:

☐ For approval

☐ Approved as submitted

☐ Electronic File accompanied with signed hard copy.

☒ For your use

☐ Approved as noted

Hard copy rules in ALL conflicts.

☐ As requested

☐ Returned for corrections

☐ Review

☐ FOR BIDS USE _____, 20____

REMARKS: Please put this on the Commissioners Court agenda to be discussed for Wheeler Road. Thank you.

COPY TO: File

SIGNED:

John F. Landgraf, P.E.

BUDGET AMENDMENT REQUEST FORM

ALL ECTOR COUNTY OPERATING FUNDS

When requesting a Budget Amendment, this form MUST be completed and filed with the County Judge to be placed on the next agenda of the Ector County Commissioners Court.

ORDER OF THE ECTOR COUNTY COMMISSIONERS COURT

On this the 23rd day of July 2024, the following budget amendment to the Commissioners Court

	ACCOUNT NUMBER	LINE ITEM DESCRIPTION	AMOUNT
TO:	001-425-5161	Educational Travel	850
FROM:	001-425-5199	Dept Furniture & Equipment	850

This request is made for the following reasons:

Amend for Education expenses

APPROVED AND SIGNED this the 23rd of July 2024.

ECTOR COUNTY JUDGE

ATTEST: ECTOR COUNTY CLERK

TO BE COMPLETED BY THE COUNTY AUDITOR:

DATE OF ENTRY: _____

JOURNAL ENTRY NO: _____

ENTRY MADE BY: _____

BUDGET ADJUSTMENT NO: _____

AGENDA ITEM # 21a

BUDGET AMENDMENT REQUEST FORM

ALL ECTOR COUNTY OPERATING FUNDS

When requesting a Budget Amendment, this form MUST be completed and filed with the County Judge to be placed on the next agenda of the Ector County Commissioners Court.

ORDER OF THE ECTOR COUNTY COMMISSIONERS COURT

On this the 23rd day of July 2024, the following budget amendment to the Commissioners Court

	ACCOUNT NUMBER	LINE ITEM DESCRIPTION	AMOUNT
TO:	004-980-5161	Educational Travel	4,500
FROM:	004-980-5193	Postage	4,500

This request is made for the following reasons:

Amend for Education expenses

APPROVED AND SIGNED this the 23rd of July 2024.

ECTOR COUNTY JUDGE

ATTEST: ECTOR COUNTY CLERK

TO BE COMPLETED BY THE COUNTY AUDITOR:

DATE OF ENTRY: _____

JOURNAL ENTRY NO: _____

ENTRY MADE BY: _____

BUDGET ADJUSTMENT NO: _____

AGENDA ITEM # 21b

BUDGET AMENDMENT REQUEST FORM

ALL ECTOR COUNTY OPERATING FUNDS

When requesting a Budget Amendment, this form MUST be completed and filed with the County Judge to be placed on the next agenda of the Ector County Commissioners Court.

ORDER OF THE ECTOR COUNTY COMMISSIONERS COURT

On this the 23rd day of July 2024, the following budget amendment to the Commissioners Court

	ACCOUNT NUMBER	LINE ITEM DESCRIPTION	AMOUNT
TO:	001-260-5171	Office Supplies	1,000
FROM:	001-260-5103	Salaries, Full Time	1,000

This request is made for the following reasons:

Amend for office expenses

APPROVED AND SIGNED this the 23rd of July 2024,

ECTOR COUNTY JUDGE

ATTEST: ECTOR COUNTY CLERK

TO BE COMPLETED BY THE COUNTY AUDITOR:

DATE OF ENTRY: _____

JOURNAL ENTRY NO: _____

ENTRY MADE BY: _____

BUDGET ADJUSTMENT NO: _____

AGENDA ITEM #

21c

BUDGET AMENDMENT REQUEST FORM

ALL ECTOR COUNTY OPERATING FUNDS

When requesting a Budget Amendment, this form MUST be completed and filed with the County Judge to be placed on the next agenda of the Ector County Commissioners Court.

ORDER OF THE ECTOR COUNTY COMMISSIONERS COURT

On this the 23rd day of July 2024, the following budget amendment to the Commissioners Court

	ACCOUNT NUMBER	LINE ITEM DESCRIPTION	AMOUNT
TO:	044-990-5503	New Building	130,414
FROM:	044-3310	Unreserved Fund Balance	130,414

This request is made for the following reasons:

Amend for Property Purchase

APPROVED AND SIGNED this the 23rd of July 2024.

ECTOR COUNTY JUDGE

ATTEST: ECTOR COUNTY CLERK

TO BE COMPLETED BY THE COUNTY AUDITOR:

DATE OF ENTRY: _____

JOURNAL ENTRY NO: _____

ENTRY MADE BY: _____

BUDGET ADJUSTMENT NO: _____

AGENDA ITEM # 22