



**Community Council of Greater Dallas
Dallas Area Agency on Aging**

Fiscal Year 2027 Agreement Amendment and Extension

Checklist – Please complete and/or sign the attached documents (including this sheet) and return to us via e-mail at your earliest convenience to remain compliance with the State of Texas.

1. ☐ Checklist
2. ☐ Cover Letter
3. ☐ Fiscal Year 2027 Agreement Amendment and Extension
4. ☐ Service Projections
5. ☐ Certificate of Liability Insurance (refer to notes below for requirements)
6. ☐ Work's Compensation Form (Fill out; if not included on Certificate of Liability Insurance)
7. ☐ Debarment Certification
8. ☐ W-9 Form – Taxpayer Identification Number
9. ☐ DUA Data Use Agreement Signature Page
10. ☒ Budget Worksheet Calculation of the per Meal Unit Rate (CM and HDM only)
11. ☐ Dietitian Statement and Certification (CM and HDM only)
12. ☐ Dietitian Approved Meal Menus and Calendars for the current period (CM and HDM only)

In order for you to continue as a subrecipient, you will need to add the **Community Council, 1341 W. Mockingbird Ln., Suite 1000W, Dallas, TX 75247**, as Additional Insured in the additional insured box or comments section. Please verify that your liability insurance coverage levels are adequate. Our current requirements for subrecipients are:

General liability coverage of at least: \$2,000,000 General Aggregate \$1,000,000 Products Completed Operations Aggregate \$1,000,000 Occurrence \$1,000,000 Personal Injury/Advertising Injury	In addition, we are looking for workers' compensation coverage with employer's liability limits of at least: \$500,000 per occurrence bodily injury; \$500,000 each employee occupational disease; \$500,000 policy limit occupational disease
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In addition, if you do not indicate on your certificate of liability insurance that you carry workers' compensation coverage, we have attached a form with a box to check that your company is an independent contractor and not an employee.

Please retain **One Copy** for your files, and return **One Copy** via e-mail to:

Nancy Wilson, Contracts Department
nwilson@ccadvance.org

If you have any questions, please email me.

Community Council

Moving families forward, leaving poverty behind.



September 15, 2026

Wanda Randle
Senior Center Director
City of Hutchins
500 W Hickman,
Hutchins, Texas 75141

Dear Ms. Wanda Randle

Attached please find the **FY2027** Agreement Amendment and Extension, by and between the Dallas Area Agency on Aging, a program of Community Council and **City of Hutchins**, containing the signature of Mr. Jafferli Jamal, Interim CEO-CFO and Mrs. Doris Soler, Dallas Area Agency on Aging, Director. Once all documents are signed by the proper authority, keep one copy for your files and return one to me via e-mail.

Should you have any questions, please feel free to email me.

Sincerely,

Nancy Wilson

Nancy Wilson, Contracts Department
Community Council/ Dallas Area Agency on Aging.

FISCAL YEAR 2027 AGREEMENT AMENDMENT AND EXTENSION

This Fiscal Year 2027 Agreement Extension is made and entered into as an extension of the Fiscal Year 2026 Agreement for Title III Federal Services dated October 1, 2025, by and between the Dallas Area Agency on Aging, a program of Community Council of Greater Dallas, hereafter referred to as the DAAA, and **City of Hutchins**, hereinafter referred to as SUBRECIPIENT.

WITNESSETH

WHEREAS the SUBRECIPIENT and DAAA executed an Agreement dated **November 05, 2025**, for the provision of Title III Federal Services and,

WHEREAS, Section IV of that Agreement contemplated contract extensions for a specific period, subject to SUBRECIPIENT's satisfactory performance;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, the SUBRECIPIENT and DAAA agree as follows:

Contract Term: This Agreement Extension shall become effective on October 1, 2026, and remain in effect through September 30, 2027, unless earlier terminated by the parties.

SUBRECIPIENT shall provide **Congregate Meals** to eligible participants. A unit of service is defined as **one meal**. The number of units of service under this project for this Agreement Extension period shall be approximately **4,500** meals. The number of unduplicated persons receiving services shall be approximately **55** eligible participants.

Compensation: DAAA will pay the SUBRECIPIENT on a **Congregate Meal** unit rate basis for services rendered at a unit rate of **\$11.86** for Title III units. Title III compensation for the provision of services shall not exceed **\$52,290.74**. The SUBRECIPIENT will provide a mandatory match of at least **\$5,819.88**. The unit rate for meals purchased with match funds shall be **\$13.18**.

Program Income: **Congregate Meals** units of service will be purchased with program income at a unit rate of **\$13.18** per unit. The goal for the program income shall be **\$1,199.38**.

The above figures are based on the attached documents; FY2027 Congregate Meal Budget Worksheet Calculation of The Per Meal Unit Rate and Service Projections FY2027.

Coordination with Fiscal Year 2026 Agreement: This Fiscal Year 2027 Agreement Extension is an extension of those contractual provisions, attachments, assurances, etc. of the Fiscal Year 2026 Agreement, and those prior terms and conditions shall remain unchanged and in full force and effect unless otherwise stated herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their authorized representatives as set forth below.

City of Hutchins.

COMMUNITY COUNCIL OF
GREATER DALLAS / DALLAS AREA
AGENCY ON AGING

Name / Title

Signature

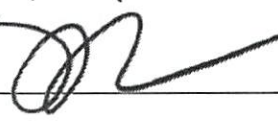
Date



Jafferli Jamal,
Interim CEO- CFO

9/15/2026

Date



Doris Soler
Director of Dallas Area Agency on Aging

9/15/2026

Date

Service Projections FY2027

Agency Name:

The City of Hutchins

a. Provide

Fill out service projections including number of unduplicated persons to be served and service units to be provided for each service proposed under the project.

Double click the table chart to insert your projections:

Proposed Service #1: CM	Projected FY2026 Final	FY2027 Performance Projections	Variance from Current Year Projected	Explanation of Variance +/- 5%
Unduplicated Persons	55	55	0%	
Services Units	5,500	4,500	-18%	Reduced participation
Proposed Service #2:	Projected FY2026 Final	FY 2027 Performance Projections	Variance from Current Year Projected	Explanation of Variance +/- 5%
Unduplicated Persons	0	0		
Services Units	0	0		

Standardized Cost Sheet for Nutrition Programs

Instructions:

1. Enter the budgeted revenue for Congregate meals in column E and the budgeted revenue for Home Delivered meals in column G for each fund source.
2. Enter the expenses for each category for Congregate meal in column E and expenses for Home Delivered meal in column G.
3. Select the cost type in Column D for each expense line item.
4. Enter the projected number of Congregate meals to be served in cell C113.
5. Enter the projected number of Home Delivered meals to be served in cell C114.
6. Enter the negotiated rate per meal for Congregate meals in cell G116.
7. Enter the negotiated rate per meal for Home Delivered meals in cell G117.

REVENUE

		Congregate Meal	Home Delivered Meal
Older Americans Act Funds	Title III-C1 Congregate Nutrition	\$52,290.74	
	Title III-C2 Home Delivered Meals		
	Nutrition Services Incentive Program		
State Funds	State General Revenue		
	Other State Funds (Specify):		
Other Funding Sources	Local Match (Cash)	\$0.00	
	Local Match (Third-Party In-Kind)		
	Program Income (Participant Contributions)	\$1,199.38	
	Donations		
	Other (Specify): Mandatory Match	\$5,819.88	
	Other (Specify):		
Total Revenue		\$9,810.00	\$ -
Total Revenue (Congregate & Home Delivered)		\$9,810.00	\$9,810.00

EXPENSES

		Total Cost	Cost Type	Congregate	Percentage of Total Cost	Home Delivered	Percentage of Total Cost
Personnel and Labor Cost (Including Fringe Benefits)	Kitchen/Nutrition Managers	\$ -		\$ -	0%	\$ -	0%
	Cooks	\$ -			0%		0%
	Meal Driver	\$ -		\$ -	0%		0%
	Kitchen Aides/ Food Service Workers	\$ 11,119.00	Management & Support	\$ 11,119.00	100%		0%
	Custodial	\$ -		\$ -	0%		0%
	Other Kitchen Workers	\$ -			0%		0%
	Maintenance or Repair Staff	\$ -			0%		0%
	Program Coordinators	\$ 11,119.00	Management & Support	\$ 11,119.00	100%		0%
	Program Dietitian/ Nutritionist	\$ -			0%		0%
	Outreach/ Volunteer Coordinators	\$ -			0%		0%
	Office Support Staff	\$ -			0%		0%
	Bookkeeper/ Business Manager	\$ -			0%		0%
	Site Managers	\$ -			0%		0%
	Center Director	\$ -			0%		0%
	Volunteer Stipends, etc.	\$ -			0%		0%
	Volunteer Recognition	\$ -			0%		0%
	Other (specify): Nutrition Education	\$ 4,600.00	Direct Meal Cost	\$ 4,600.00	100%		0%
Travel	Mileage Reimbursement	\$ -			0%		0%
	Delivery Cost	\$ -			0%	\$ -	0%
	Gas & Oil	\$ -		\$ -	0%	\$ -	0%
	Other (Specify):	\$ -			0%		0%
Vehicle Cost	Repairs	\$ -			0%	\$ -	0%
	Insurance	\$ -		\$ -	0%	\$ -	0%
	Depreciation/Lease	\$ -		\$ -	0%	\$ -	0%
	Interest	\$ -		\$ -	0%	\$ -	0%
	Tags & Licenses	\$ -		\$ -	0%	\$ -	0%
	Other (Specify):	\$ -			0%		0%
		\$ -			0%		0%
Supplies	Disposable/Paper Goods	\$ -			0%		0%
	Linens/Uniforms	\$ 400.00	Direct Meal Cost	\$ 400.00	100%	\$ -	0%
	Kitchen Supplies	\$ -		\$ -	0%	\$ -	0%
	Cleaning Supplies	\$ 750.00	Management & Support	\$ 750.00	100%	\$ -	0%
	Office Supplies	\$ 1,250.00	Management & Support	\$ 1,250.00	100%	\$ -	0%
	Printing/Publications	\$ -		\$ -	0%	\$ -	0%
	Books/Subscriptions	\$ 250.00	Management & Support	\$ 250.00	100%	\$ -	0%
	Postage	\$ 100.00	Management & Support	\$ 100.00	100%	\$ -	0%
	Other (specify)	\$ -		\$ -	0%	\$ -	0%
	Other (specify)	\$ -		\$ -	0%	\$ -	0%
		\$ -		\$ -	0%	\$ -	0%
		\$ -		\$ -	0%	\$ -	0%
Food Cost	Purchased Meal Costs (catered operation)	\$ 22,725.00	Direct Meal Cost	\$ 22,725.00	100%	\$ -	0%
	Raw Food Costs (cooking operation)	\$ -		\$ -	0%	\$ -	0%
	Freight/Shipping	\$ -		\$ -	0%	\$ -	0%
	Other (specify)	\$ -		\$ -	0%	\$ -	0%
		\$ -		\$ -	0%	\$ -	0%
Facility & Utilities	Rent/Lease	\$ -		\$ -	0%	\$ -	0%
	Depreciation	\$ -		\$ -	0%	\$ -	0%
	Real Estate Taxes	\$ -		\$ -	0%	\$ -	0%
	Utilities	\$ 2,900.00	Direct Meal Cost	\$ 2,900.00	100%	\$ -	0%
	Construction	\$ -		\$ -	0%	\$ -	0%
	Renovation	\$ -		\$ -	0%	\$ -	0%
	Security	\$ -		\$ -	0%	\$ -	0%
	Pest Control	\$ -		\$ -	0%	\$ -	0%
	Building Maintenance	\$ 1,250.00	Direct Meal Cost	\$ 1,250.00	100%	\$ -	0%
	Other (specify)	\$ -		\$ -	0%	\$ -	0%
		\$ -		\$ -	0%	\$ -	0%
		\$ -		\$ -	0%	\$ -	0%
		\$ -		\$ -	0%	\$ -	0%
Communications	Phone/Fax	\$ 600.00	Management & Support	\$ 600.00	100%	\$ -	0%
	Internet/Email	\$ -		\$ -	0%	\$ -	0%
	Marketing/ Promotion	\$ -		\$ -	0%	\$ -	0%
	Other (Specify):	\$ -		\$ -	0%	\$ -	0%
		\$ -		\$ -	0%	\$ -	0%
Equipment (Non-Vehicle)	Capital Equipment Purchases	\$ -			0%		0%
	Repairs/Maintenance	\$ -		\$ -	0%	\$ -	0%
	Rent/Lease of Equipment	\$ -		\$ -	0%	\$ -	0%
	Depreciation (non-vehicle)	\$ -		\$ -	0%	\$ -	0%

Provider Name:	City of Hutchins
Fiscal Year:	FY2027

Other Operating Costs	Smallwares	\$ -		\$ -	0%	\$ -	0%
	Computers/ Hardware	\$ 2,250.00	Management & Support	\$ 2,250.00	100%	\$ -	0%
	Other (Specify):	\$ -			0%		0%
	Licenses/Permits	\$ -		\$ -	0%	\$ -	0%
	Insurance (non-vehicle)	\$ -		\$ -	0%	\$ -	0%
	Taxes	\$ -		\$ -	0%	\$ -	0%
	Audit	\$ -		\$ -	0%	\$ -	0%
	Accounting	\$ -		\$ -	0%	\$ -	0%
	Indirect Costs Paid	\$ -		\$ -	0%	\$ -	0%
	Computer Software	\$ -		\$ -	0%	\$ -	0%
	Other (Specify):	\$ -		\$ -	0%	\$ -	0%
	Other (Specify):	\$ -		\$ -	0%	\$ -	0%

SUMMARY DATA

Total Cost Per Category	Total	Congregate	Percentage of Total Cost	Home Delivered	Percentage of Total Cost
Personnel & Labor	\$ 26,838.00	\$ 26,838.00	100%	\$ -	0%
Travel	\$ -	\$ -	0%	\$ -	0%
Vehicle Cost	\$ -	\$ -	0%	\$ -	0%
Supplies	\$ 2,750.00	\$ 2,750.00	100%	\$ -	0%
Food Cost	\$ 22,725.00	\$ 22,725.00	100%	\$ -	0%
Facility & Utilities	\$ 4,150.00	\$ 4,150.00	100%	\$ -	0%
Communications	\$ 600.00	\$ 600.00	100%	\$ -	0%
Equipment (Non-Vehicle)	\$ 2,250.00	\$ 2,250.00	100%	\$ -	0%
Other Operating Cost	\$ -	\$ -	0%	\$ -	0%
Total Project Cost	\$ 59,313.00	\$ 59,313.00	100%	\$ -	0%
	Total	Congregate	Percentage of Total Cost	Home Delivered	Percentage of Total Cost
Total Direct Meal Cost	\$ 31,875.00	\$ 31,875.00	100%	\$ -	0%
Total Management & Support Cost	\$ 27,438.00	\$ 27,438.00	100%	\$ -	0%
		Nutrition Education	\$ 4,600.00	Projected NE units	520
		Calculated NE Cost per unit		\$ 8.85	
Total # of Congregate Meals to be Served	4,500	Mandatory Match 10%	\$1.32	Total Cost	\$5,819.88
Total # of Home Delivered meals to be Served		TIII Unit Rate	\$11.86	Total TIII Cost	\$52,290.74
Total Number of Meals (Congregate & Home Delivered)	4,500	Program Income	\$1,199.38	Projected Program Income Units	91
Cost Per Meal (Congregate Meal)	\$ 13.18	Negotiated Cost Per Meal (Congregate Meal)		\$ 11.86	
Cost Per Meal (Home Delivered Meal)	#DIV/0!	Negotiated Cost Per Meal (Home Delivered Meal)			
Breakdown of meals to be served by funding source		Total Revenue	\$ 59,310.00	What we would grant.	
	91		1,199.38		
	4,409		52,290.74		
	0		0.00		
Total # of Meals to be served	4,500			Difference of \$3	
		Mandatory Match	5,819.88		
		Actual Grand Total	59,310.00		

Attach copies of your current Certificate of Liability Insurance

coverage of at least:

\$2,000,000 General Aggregate

\$1,000,000 Products Completed Operations Aggregate

\$500,000 per occurrence bodily injury;

With employers' liability limits of at least:

\$1,000,000 Occurrence

\$500,000 each employee occupational disease;

\$1,000,000 Personal Injury/Advertising Injury

Please list:

Community Council of Greater Dallas, 1341 W. Mockingbird Ln., Suite 1000W, Dallas, TX 75247, as Additional Insured in the additional insured box or comment section.

TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION
7551 Metro Center Drive, Suite 100
Austin, Texas 78744

If you are not certain whether all parties meet the requirements for entering into this agreement, you may wish to consult an attorney.

Texas Workers' Compensation Act, Texas Labor Code, Section 406.141(2) defines "independent contractor" as follows: (2) "Independent contractor" means a person who contracts to perform work or provide a service for the benefit of another and who: (A) is paid by the job, not by the hour or some other time-measured basis; (B) is free to hire as many helpers as he desires and to determine what each helper will be paid; and (C) is free to work for other contractors, or to send helpers to work for other contractors, while under contract to the hiring employer.

CHECK ☐ BOX OF STATEMENT THAT APPLIES

☒ JOINT AGREEMENT TO AFFIRM INDEPENDENT
RELATIONSHIP FOR CERTAIN BUILDING
AND CONSTRUCTION WORKERS

Notice of Declaration

The undersigned Hiring Contractor and the undersigned Independent Contractor hereby declare that the Independent Contractor meets the qualifications of an Independent Contractor under Texas Workers' Compensation Act, Texas Labor Code, Section 406.141, that the Independent Contractor is not an employee of the Hiring Contractor, and that:

- (A) the Independent Contractor and the Independent Contractor's employees shall not be entitled to workers' compensation coverage from the Hiring Contractor, and
- (B) the Hiring Contractor's workers' compensation insurance carrier shall not require premiums to be paid by the Hiring Contractor for coverage of the Independent Contractor or the Independent Contractor's employees, helpers, or subcontractors.

THIS DECLARATION TAKES EFFECT UPON RECEIPT BY THE TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION. THIS DECLARATION APPLIES TO ALL HIRING AGREEMENTS EXECUTED BY THE HIRING CONTRACTOR AND THE INDEPENDENT CONTRACTOR DURING THE YEAR AFTER THIS DECLARATION IS FILED UNLESS A SUBSEQUENT HIRING AGREEMENT IS MADE TO WHICH THE DECLARATION DOES NOT APPLY. IN THE EVENT THAT A HIRING AGREEMENT TO WHICH THIS DECLARATION DOES NOT APPLY IS MADE, THE HIRING CONTRACTOR AND INDEPENDENT CONTRACTOR SHALL SO NOTIFY THE TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION AND THE HIRING CONTRACTOR'S WORKERS' COMPENSATION INSURANCE CARRIER (IF ANY) IN WRITING WITHIN 10 DAYS AFTER THE NON-APPLYING AGREEMENT IS MADE. ONCE THIS AGREEMENT IS SIGNED, THE SUBCONTRACTOR AND THE SUBCONTRACTOR'S EMPLOYEES SHALL NOT BE ENTITLED TO WORKERS' COMPENSATION COVERAGE FROM THE HIRING CONTRACTOR UNLESS A SUBSEQUENT WRITTEN AGREEMENT IS EXECUTED, AND FILED ACCORDING TO WORKERS' COMPENSATION RULES, EXPRESSLY STATING THAT THIS AGREEMENT DOES NOT APPLY.

Texas Labor Code, Texas Workers' Compensation Act, Section 406.145.

☐ AGREEMENT TO ESTABLISH EMPLOYER-
EMPLOYEE RELATIONSHIP FOR CERTAIN
BUILDING AND CONSTRUCTION WORKERS

Notice of Agreement

The undersigned Hiring Contractor and the undersigned Independent Contractor hereby agree that the Hiring Contractor ☐ will withhold ☐ will not withhold the cost of workers' compensation insurance coverage from the Independent Contractor's contract price and that the Hiring Contractor will purchase workers' compensation insurance coverage for the Independent Contractor and the Independent Contractor's employees. Once this agreement is signed, for the purpose of providing workers' compensation insurance coverage, the Hiring Contractor will be the employer of the Independent Contractor and the Independent Contractor's employees. This agreement makes the Hiring Contractor the employer of the Independent Contractor and the Independent Contractor's employees only for the purposes of workers' compensation laws of Texas and for no other purpose.

TERM (DATES) OF AGREEMENT: _____ FROM: _____
TO: _____

LOCATION OF EACH AFFECTED JOB SITE (OR STATE WHETHER THIS IS A BLANKET AGREEMENT):

ESTIMATED NUMBER OF EMPLOYEES AFFECTED: _____

THIS AGREEMENT SHALL TAKE EFFECT NO SOONER THAN THE DATE IT IS SIGNED.

Texas Labor Code, Texas Workers' Compensation Act, Section 406.144.

Hiring Contractor's Affirmation

If the Hiring Contractor's workers' compensation carrier change during the effective period of coverage, it is advisable for the Hiring Contractor to file this form with the new insurance carrier.

Federal Tax I.D. Number

Signature of Hiring Contractor

Date

Address (Street)

Printed Name of the Hiring Contractor

Address (City, State, Zip)

Independent Contractor's Affirmation

Federal Tax I.D. Number

× _____
Signature of Independent Contractor

× _____
Date

× _____
Address (Street)

× _____
Printed Name of the Independent Contractor

× _____
Address (City, State, Zip)

The Hiring Contractor should retain the original. Legible copies of this agreement should be filed with the hiring contractor's workers' compensation insurance carrier and the Division within 10 days of the date of execution. An agreement is not considered filed if it is illegible or incomplete. Filing may be accomplished by mail or facsimile transmission. The Independent Contractor should also retain a copy of the agreement.

Division Date Stamp Here



CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION FOR COVERED CONTRACTS AND GRANTS

This certification is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 93, Government-wide Debarment and Suspension, for the Department of Agriculture (7 CFR Part 3017), Department of Labor (29 CFR Part 98), Department of Education (34 CFR Parts 85, 668, 682), Department of Health and Human Services (45 CFR Part 76).

In this certification "contractor/grantee" refers to both contractor/grantee and subcontractor/subgrantee; "contract/grant" refers to both contract/grant and subcontract/subgrant.

By signing and submitting this certification the potential contractor/grantee accepts the following terms:

1. The certification herein below is a material representation of fact upon which reliance was placed when this contract/grant was entered into. If it is later determined that the potential contractor/grantee knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Department of Health and Human Services, United States Department of Agriculture or other federal department or agency, may pursue available remedies, including suspension and/or debarment.
 2. The potential contractor/grantee shall provide immediate written notice to the person to which this certification is submitted if at any time the potential contractor/grantee learns that the certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
 3. The words "covered contract," "debarred," "suspended," "ineligible," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this certification have meanings based upon materials in the Definitions and Coverage sections of federal rules implementing Executive Order 12549. Usage is defined in the attachment.
 4. The potential contractor/grantee agrees by submitting this certification that, should the proposed covered contract/grant be entered into, it shall not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department of Health and Human Services, United State Department of Agriculture or other federal department or agency, as applicable.
- ✕ Do you have or do you anticipate having subcontractors/subgrantees under this proposed contract? YES NO
5. The potential contractor/grantee further agrees by submitting this certification that it will include this certification titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion for Covered Contracts and Grants" without modification in all covered subcontracts and in solicitations for covered subcontracts.
 6. A contractor/grantee may rely upon a certification of a potential subcontractor/subgrantee that it is not debarred, suspended, ineligible, or voluntarily

excluded from the covered contract/grant, unless it knows that the certification is erroneous. A contractor/grantee must, at a minimum, obtain certifications from its covered subcontractors/subgrantees upon each subcontract's/subgrant's initiation and upon each renewal.

7. Nothing contained in all the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this certification document. The knowledge and information of a contractor/grantee is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for contracts/grants authorized under paragraph 4 of these items, if a contractor/grantee in a covered contract/grant knowingly enters into a covered subcontract/subgrant with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in the transaction, in addition to other remedies available to the federal government, Department of Health and Human Services, United States Department of agriculture, or other federal department or agency, as applicable, may pursue available remedies, including suspension and/or debarment.

☒ Indicate which statement applies to the covered potential contractor/grantee:

_____ The potential contractor/grantee certifies, by submission of this certification, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract/grant by any federal department or agency or by the State of Texas.

_____ The potential contractor/grantee is unable to certify to one or more of the terms in this certification. In this instance, the potential contractor/grantee must attach an explanation for each of the above terms to which he is unable to make certification. Attach the explanation(s) to this certification.

City of Hutchins

NAME OF POTENTIAL CONTRACTOR/GRANTEE:

75-6005082

VENDOR ID NO. / FEDERAL EMPLOYER'S ID NO.

Signature of Authorized Representative

Printed/Typed Name of Authorized Representative

Date

Title of Authorized Representative

**Request for Taxpayer
Identification Number and Certification**

Go to www.irs.gov/FormW9 for instructions and the latest information.

Give form to the
requester. Do not
send to the IRS.

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

Print or type. See Specific Instructions on page 3.	1	Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)	
	2	Business name/disregarded entity name, if different from above.	
	3a	Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only one of the following seven boxes. ☐ Individual/sole proprietor ☐ C corporation ☐ S corporation ☐ Partnership ☐ Trust/estate ☐ LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____ (Applies to accounts maintained outside the United States.)
	3b	If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions ☐	
	5	Address (number, street, and apt. or suite no.). See instructions.	Requester's name and address (optional)
	6	City, state, and ZIP code	
	7	List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	
or	
Employer identification number	

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

✕ **Sign Here** Signature of U.S. person

Date

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

What's New

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they

**DATA USE AGREEMENT
BETWEEN THE
TEXAS HEALTH AND HUMAN SERVICES SYSTEM
AND
CONTRACTOR**

This Data Use Agreement ("DUA") is effective as of the date of the Base Contract into which it is incorporated ("Effective Date"), by and between the Texas Health and Human Services System, which includes the Texas Health and Human Services Commission and the Department of State Health Services ("HHS") and Contractor (the "Base Contract").

ARTICLE 1. PURPOSE; APPLICABILITY; ORDER OF PRECEDENCE

The purpose of this DUA is to facilitate access to, creation, receipt, maintenance, use, disclosure or transmission of Confidential Information with Contractor, and describe Contractor's rights and obligations with respect to the Confidential Information and the limited purposes for which the Contractor may create, receive, maintain, use, disclose or have access to Confidential Information. This DUA also describes HHS's remedies in the event of Contractor's noncompliance with its obligations under this DUA. This DUA applies to both HHS business associates, as "business associate" is defined in the Health Insurance Portability and Accountability Act (HIPAA), and contractors who are not business associates, who create, receive, maintain, use, disclose or have access to Confidential Information on behalf of HHS, its programs or clients as described in the Base Contract. As a best practice, HHS requires its contractors to comply with the terms of this DUA to safeguard all types of Confidential Information.

As of the Effective Date of this DUA, if any provision of the Base Contract conflicts with this DUA, this DUA controls.

ARTICLE 2. DEFINITIONS

For the purposes of this DUA, capitalized, underlined terms have the following meanings:

"Authorized Purpose" means the specific purpose or purposes described in the Base Contract for Contractor to fulfill its obligations under the Base Contract, or any other purpose expressly authorized by HHS in writing in advance.

"Authorized User" means a person:

- (1) Who is authorized to create, receive, maintain, have access to, process, view, handle, examine, interpret, or analyze Confidential Information pursuant to this DUA;
- (2) For whom Contractor warrants and represents has a demonstrable need to create, receive, maintain, use, disclose or have access to the Confidential Information; and
- (3) Who has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information as required by this DUA.

"Breach" means an impermissible use or disclosure of electronic or non-electronic sensitive personal information by an unauthorized person or for an unauthorized purpose that compromises the security or privacy of Confidential Information such that the use or disclosure poses a risk of reputational harm, theft of financial information, identity theft, or medical identity theft. Any acquisition, access, use, disclosure or loss of Confidential Information other than as permitted by this

DUA shall be presumed to be a Breach unless Contractor demonstrates, based on a risk assessment, that there is a low probability that the Confidential Information has been compromised.

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

- (1) Education records as defined in the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g; 34 C.F.R. Part 99
- (2) Federal Tax Information as defined in Internal Revenue Code §6103 and Internal Revenue Service Publication 1075;
- (3) Personal Identifying Information (PII) as defined in Texas Business and Commerce Code, Chapter 521;
- (4) Protected Health Information (PHI) in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information as defined in 45 C.F.R. §160.103;
- (5) Sensitive Personal Information (SPI) as defined in Texas Business and Commerce Code, Chapter 521;
- (6) Social Security Administration Data, including, without limitation, Medicaid information means disclosures of information made by the Social Security Administration or the Centers for Medicare and Medicaid Services from a federal system of records for administration of federally funded benefit programs under the Social Security Act, 42 U.S.C., Chapter 7;
- (7) All privileged work product;
- (8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

“Destroy”, “Destruction”, for Confidential Information, means:

(1) Paper, film, or other hard copy media have been shredded or destroyed such that the Confidential Information cannot be read or otherwise cannot be reconstructed. Redaction is specifically excluded as a means of data destruction.

(2) Electronic media have been cleared, purged, or destroyed consistent with NIST Special Publication 800-88, "Guidelines for Media Sanitization," such that the Confidential Information cannot be retrieved.

“Discover, Discovery” means the first day on which a Breach becomes known to Contractor, or, by exercising reasonable diligence would have been known to Contractor.

“Legally Authorized Representative” of an individual, including as provided in 45 CFR 435.923 (authorized representative); 45 CFR 164.502(g)(1) (personal representative); Tex. Occ. Code § 151.002(6); Tex. H. & S. Code §166.164 (medical power of attorney); and Texas Estates Code § 22.031 (representative).

“Required by Law” means a mandate contained in law that compels an entity to use or disclose Confidential Information that is enforceable in a court of law, including court orders, warrants, subpoenas or investigative demands.

“Subcontractor” means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

“Workforce” means employees, volunteers, trainees or other persons whose performance of work is under the direct control of a party, whether or not they are paid by that party.

ARTICLE 3. CONTRACTOR'S DUTIES REGARDING CONFIDENTIAL INFORMATION

Section 3.01 Obligations of Contractor

Contractor agrees that:

(A) With respect to PHI, Contractor shall:

(1) Make PHI available in a designated record set if requested by HHS, if Contractor maintains PHI in a designated record set, as defined in HIPAA.

(2) Provide to HHS data aggregation services related to the healthcare operations Contractor performs for HHS pursuant to the Base Contract, if requested by HHS, if Contractor provides data aggregation services as defined in HIPAA.

(3) Provide access to PHI to an individual who is requesting his or her own PHI, or such individual's Legally Authorized Representative, in compliance with the requirements of HIPAA.

(4) Make PHI available to HHS for amendment, and incorporate any amendments to PHI that HHS directs, in compliance with HIPAA.

(5) Document and make available to HHS, an accounting of disclosures in compliance with the requirements of HIPAA.

(6) If Contractor receives a request for access, amendment or accounting of PHI by any individual, promptly forward the request to HHS or, if forwarding the request would violate HIPAA, promptly notify HHS of the request and of Contractor's response. HHS will respond to all such requests, unless Contractor is Required by Law to respond or HHS has given prior written consent for Contractor to respond to and account for all such requests.

(B) With respect to ALL Confidential Information, Contractor shall:

(1) Exercise reasonable care and no less than the same degree of care Contractor uses to protect its own confidential, proprietary and trade secret information to prevent Confidential Information from being used in a manner that is not expressly an Authorized Purpose or as Required by Law. Contractor will access, create, maintain, receive, use, disclose, transmit or Destroy Confidential Information in a secure fashion that protects against any reasonably anticipated threats or hazards to the security or integrity of such information or unauthorized uses.

(2) Establish, implement and maintain appropriate procedural, administrative, physical and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information, in accordance with applicable laws or regulations relating to Confidential Information, to prevent any unauthorized use or disclosure of Confidential Information as long as Contractor has such Confidential Information in its actual or constructive possession.

(3) Implement, update as necessary, and document privacy, security and Breach notice policies and procedures and an incident response plan to address a Breach, to comply with the privacy, security and breach notice requirements of this DUA prior to conducting work under the Base Contract. Contractor

shall produce, within three business days of a request by HHS, copies of its policies and procedures and records relating to the use or disclosure of Confidential Information.

(4) Obtain HHS's prior written consent to disclose or allow access to any portion of the Confidential Information to any person, other than Authorized Users, Workforce or Subcontractors of Contractor who have completed training in confidentiality, privacy, security and the importance of promptly reporting any Breach to Contractor's management and as permitted in Section 3.01(A)(3), above. Contractor shall produce evidence of completed training to HHS upon request. HHS, at its election, may assist Contractor in training and education on specific or unique HHS processes, systems and/or requirements. All of Contractor's Authorized Users, Workforce and Subcontractors with access to a state computer system or database will complete a cybersecurity training program certified under Texas Government Code Section 2054.519 by the Texas Department of Information Resources.

(5) Establish, implement and maintain appropriate sanctions against any member of its Workforce or Subcontractor who fails to comply with this DUA, the Base Contract or applicable law. Contractor shall maintain evidence of sanctions and produce it to HHS upon request.

(6) Obtain prior written approval of HHS, to disclose or provide access to any Confidential Information on the basis that such act is Required by Law, so that HHS may have the opportunity to object to the disclosure or access and seek appropriate relief. If HHS objects to such disclosure or access, Contractor shall refrain from disclosing or providing access to the Confidential Information until HHS has exhausted all alternatives for relief.

(7) Certify that its Authorized Users each have a demonstrated need to know and have access to Confidential Information solely to the minimum extent necessary to accomplish the Authorized Purpose and that each has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information contained in this DUA. Contractor and its Subcontractors shall maintain at all times an updated, complete, accurate list of Authorized Users and supply it to HHS upon request.

(8) Provide, and shall cause its Subcontractors and agents to provide, to HHS periodic written confirmation of compliance with controls and the terms and conditions of this DUA.

(9) Return to HHS or Destroy, at HHS's election and at Contractor's expense, all Confidential Information received from HHS or created or maintained by Contractor or any of Contractor's agents or Subcontractors on HHS's behalf upon the termination or expiration of this DUA, if reasonably feasible and permitted by law. Contractor shall certify in writing to HHS that all such Confidential Information has been Destroyed or returned to HHS, and that Contractor and its agents and Subcontractors have retained no copies thereof. Notwithstanding the foregoing, Contractor acknowledges and agrees that it may not Destroy any Confidential Information if federal or state law, or HHS record retention policy or a litigation hold notice prohibits such Destruction. If such return or Destruction is not reasonably feasible, or is impermissible by law, Contractor shall immediately notify HHS of the reasons such return or Destruction is not feasible and agree to extend the protections of this DUA to the Confidential Information for as long as Contractor maintains such Confidential Information.

(10) Complete and return with the Base Contract to HHS, attached as Attachment 2 to this DUA, the HHS Security and Privacy Initial Inquiry (SPI) at <https://hhs.texas.gov/laws-regulations/forms/miscellaneous/hhs-information-security-privacy-initial-inquiry-spi>. The SPI identifies basic privacy and security controls with which Contractor must comply to protect Confidential Information. Contractor shall comply with periodic security controls compliance assessment and monitoring by HHS as required by state and federal law, based on the type of Confidential Information Contractor creates, receives, maintains, uses, discloses or has access to and the Authorized Purpose and level of risk. Contractor's

security controls shall be based on the National Institute of Standards and Technology (NIST) Special Publication 800-53. Contractor shall update its security controls assessment whenever there are significant changes in security controls for HHS Confidential Information and shall provide the updated document to HHS. HHS also reserves the right to request updates as needed to satisfy state and federal monitoring requirements.

(11) Comply with the HHS Acceptable Use Policy (AUP) and require each Subcontractor and Workforce member who has direct access to HHS Information Resources, as defined in the AUP, to execute an HHS Acceptable Use Agreement.

(12) Only conduct secure transmissions of Confidential Information whether in paper, oral or electronic form. A secure transmission of electronic Confidential Information in motion includes secure File Transfer Protocol (SFTP) or encryption at an appropriate level as required by rule, regulation or law. Confidential Information at rest requires encryption unless there is adequate administrative, technical, and physical security as required by rule, regulation or law. All electronic data transfer and communications of Confidential Information shall be through secure systems. Contractor shall provide proof of system, media or device security and/or encryption to HHS no later than 48 hours after HHS's written request in response to a compliance investigation, audit, or the Discovery of a Breach. HHS may also request production of proof of security at other times as necessary to satisfy state and federal monitoring requirements. Deidentification of Confidential Information in accordance with HIPAA de-identification standards is deemed secure.

(13) Designate and identify a person or persons, as Privacy Official and Information Security Official, each of whom is authorized to act on behalf of Contractor and is responsible for the development and implementation of the privacy and security requirements in this DUA. Contractor shall provide name and current address, phone number and e-mail address for such designated officials to HHS upon execution of this DUA and prior to any change. Upon written notice from HHS, Contractor shall promptly remove and replace such official(s) if such official(s) is not performing the required functions.

(14) Make available to HHS any information HHS requires to fulfill HHS's obligations to provide access to, or copies of, Confidential Information in accordance with applicable laws, regulations or demands of a regulatory authority relating to Confidential Information. Contractor shall provide such information in a time and manner reasonably agreed upon or as designated by the applicable law or regulatory authority.

(15) Comply with the following laws and standards *if applicable to the type of Confidential Information and Contractor's Authorized Purpose*:

- Title 1, Part 10, Chapter 202, Subchapter B, Texas Administrative Code;
- The Privacy Act of 1974;
- OMB Memorandum 17-12;
- The Federal Information Security Management Act of 2002 (FISMA);
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- Internal Revenue Publication 1075 – Tax Information Security Guidelines for Federal, State and Local Agencies;
- National Institute of Standards and Technology (NIST) Special Publication 800-66 Revision 1 – An Introductory Resource Guide for Implementing the Health Insurance Portability and Accountability Act (HIPAA) Security Rule;

- NIST Special Publications 800-53 and 800-53A – Recommended Security Controls for Federal Information Systems and Organizations, as currently revised;
- NIST Special Publication 800-47 – Security Guide for Interconnecting Information Technology Systems;
- NIST Special Publication 800-88, Guidelines for Media Sanitization;
- NIST Special Publication 800-111, Guide to Storage of Encryption Technologies for End User Devices containing PHI;
- Family Educational Rights and Privacy Act
- Texas Business and Commerce Code, Chapter 521;
- Any other State or Federal law, regulation, or administrative rule relating to the specific HHS program area that Contractor supports on behalf of HHS.

(16) Be permitted to use or disclose Confidential Information for the proper management and administration of Contractor or to carry out Contractor's legal responsibilities, except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, if:

- (a) Disclosure is Required by Law;
- (b) Contractor obtains reasonable assurances from the person to whom the information is disclosed that the person shall:
 1. Maintain the confidentiality of the Confidential Information in accordance with this DUA;
 2. Use or further disclose the information only as Required by Law or for the Authorized Purpose for which it was disclosed to the person; and
 3. Notify Contractor in accordance with Section 4.01 of a Breach of Confidential Information that the person Discovers or should have Discovered with the exercise of reasonable diligence.

(C) With respect to ALL Confidential Information, Contractor shall NOT:

- (1) Attempt to re-identify or further identify Confidential Information that has been deidentified, or attempt to contact any persons whose records are contained in the Confidential Information, except for an Authorized Purpose, without express written authorization from HHS.
- (2) Engage in prohibited marketing or sale of Confidential Information.
- (3) Permit, or enter into any agreement with a Subcontractor to, create, receive, maintain, use, disclose, have access to or transmit Confidential Information, on behalf of HHS without requiring that Subcontractor first execute either the Form Subcontractor Agreement, Attachment 1, or Contractor's own Subcontractor agreement that ensures that the Subcontractor shall comply with the same safeguards and restrictions contained in this DUA for Confidential Information. Contractor is directly responsible for its Subcontractors' compliance with, and enforcement of, this DUA.

ARTICLE 4. BREACH NOTICE, REPORTING AND CORRECTION REQUIREMENTS

Section 4.01. Cooperation and Financial Responsibility.

(A) Contractor shall, at Contractor's expense, cooperate fully with HHS in investigating, mitigating to the extent practicable, and issuing notifications as directed by HHS, for any Breach of Confidential Information.

(B) Contractor shall make Confidential Information in Contractor's possession available pursuant to the requirements of HIPAA or other applicable law upon a determination of a Breach.

(C) Contractor's obligation begins at the Discovery of a Breach and continues as long as related activity continues, until all effects of the Breach are mitigated to HHS's satisfaction (the "incident response period").

Section 4.02. Initial Breach Notice.

For federal information *obtained from a federal system of records*, including Federal Tax Information and Social Security Administration Data (which includes Medicaid and other governmental benefit program Confidential Information), Contractor shall notify HHS of the Breach within the first consecutive clock hour of Discovery. The Base Contract shall specify whether Confidential Information is obtained from a federal system of records. For all other types of Confidential Information Contractor shall notify HHS of the Breach not more than 24 hours after Discovery, *or in a timeframe otherwise approved by HHS in writing*. Contractor shall initially report to HHS's Privacy and Security Officers via email at: privacy@HHSC.state.tx.us and to the HHS division responsible for the Base Contract.

Contractor shall report all information reasonably available to Contractor about the Breach.

Contractor shall provide contact information to HHS for Contractor's single point of contact who will communicate with HHS both on and off business hours during the incident response period.

Section 4.03 Third Business Day Notice: No later than 5 p.m. on the third business day after Discovery, or a time within which Discovery reasonably should have been made by Contractor of a Breach of Confidential Information, Contractor shall provide written notification to HHS of all reasonably available information about the Breach, and Contractor's investigation, including, to the extent known to Contractor:

- a. The date the Breach occurred;
- b. The date of Contractor's and, if applicable, Subcontractor's Discovery;
- c. A brief description of the Breach, including how it occurred and who is responsible (or hypotheses, if not yet determined);
- d. A brief description of Contractor's investigation and the status of the investigation;
- e. A description of the types and amount of Confidential Information involved;
- f. Identification of and number of all individuals reasonably believed to be affected, including first and last name of the individual and if applicable, the Legally authorized representative, last known address, age, telephone number, and email address if it is a preferred contact method;
- g. Contractor's initial risk assessment of the Breach demonstrating whether individual or other notices are required by applicable law or this DUA for HHS approval, including an analysis of whether there is a low probability of compromise of the Confidential Information or whether any legal exceptions to notification apply;
- h. Contractor's recommendation for HHS's approval as to the steps individuals and/or Contractor on behalf of individuals, should take to protect the individuals from potential harm, including

Contractor's provision of notifications, credit protection, claims monitoring, and any specific protections for a Legally Authorized Representative to take on behalf of an individual with special capacity or circumstances;

- i. The steps Contractor has taken to mitigate the harm or potential harm caused (including without limitation the provision of sufficient resources to mitigate);
- j. The steps Contractor has taken, or will take, to prevent or reduce the likelihood of recurrence of a similar Breach;
- k. Identify, describe or estimate of the persons, Workforce, Subcontractor, or individuals and any law enforcement that may be involved in the Breach;
- l. A reasonable schedule for Contractor to provide regular updates regarding response to the Breach, but no less than every three (3) business days, or as otherwise directed by HHS in writing, including information about risk estimations, reporting, notification, if any, mitigation, corrective action, root cause analysis and when such activities are expected to be completed; and
- m. Any reasonably available, pertinent information, documents or reports related to a Breach that HHS requests following Discovery.

Section 4.04. Investigation, Response and Mitigation.

- (A) Contractor shall immediately conduct a full and complete investigation, respond to the Breach, commit necessary and appropriate staff and resources to expeditiously respond, and report as required to HHS for incident response purposes and for purposes of HHS's compliance with report and notification requirements, to the satisfaction of HHS.
- (B) Contractor shall complete or participate in a risk assessment as directed by HHS following a Breach, and provide the final assessment, corrective actions and mitigations to HHS for review and approval.
- (C) Contractor shall fully cooperate with HHS to respond to inquiries and/or proceedings by state and federal authorities, persons and/or individuals about the Breach.
- (D) Contractor shall fully cooperate with HHS's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such Breach, or to recover or protect any Confidential Information, including complying with reasonable corrective action or measures, as specified by HHS in a Corrective Action Plan if directed by HHS under the Base Contract.

Section 4.05. Breach Notification to Individuals and Reporting to Authorities.

- (A) HHS may direct Contractor to provide Breach notification to individuals, regulators or third-parties, as specified by HHS following a Breach.
- (B) Contractor must comply with all applicable legal and regulatory requirements in the time, manner and content of any notification to individuals, regulators or third-parties, or any notice required by other state or federal authorities, including without limitation, notifications required by Texas Business and Commerce Code, Chapter 521.053(b) and HIPAA. Notice letters will be in Contractor's name and on Contractor's letterhead, unless otherwise directed by HHS, and will contain contact information, including the name and title of Contractor's representative, an email address and a toll-free telephone number, for the individual to obtain additional information.
- (C) Contractor shall provide HHS with draft notifications for HHS approval prior to distribution and copies of distributed and approved communications.

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

(E) If HHS directs Contractor to provide notifications, HHS shall, in the time and manner reasonably requested by Contractor, cooperate and assist with Contractor's information requests in order to make such notifications.

ARTICLE 5. GENERAL PROVISIONS

Section 5.01 Ownership of Confidential Information

Contractor acknowledges and agrees that the Confidential Information is and shall remain the property of HHS. Contractor agrees it acquires no title or rights to the Confidential Information.

Section 5.02 HHS Commitment and Obligations

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

Section 5.03 HHS Right to Inspection

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

Section 5.04 Term; Termination of DUA; Survival

This DUA will be effective on the date on which Contractor executes the Base Contract and will terminate upon termination of the Base Contract and as set forth herein. If the Base Contract is extended, this DUA is extended to run concurrent with the Base Contract.

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

- (1) Exercise any of its rights including but not limited to reports, access and inspection under this DUA and/or the Base Contract; or
- (2) Require Contractor to submit to a corrective action plan, including a plan for monitoring and plan for reporting as HHS may determine necessary to maintain compliance with this DUA; or
- (3) Provide Contractor with a reasonable period to cure the violation as determined by HHS; or
- (4) Terminate the DUA and Base Contract immediately and seek relief in a court of competent jurisdiction in Travis County, Texas.

Before exercising any of these options, HHS will provide written notice to Contractor describing the violation and the action it intends to take.

(B) If neither termination nor cure is feasible, HHS shall report the violation to the applicable regulatory authorities.

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

Section 5.05 Injunctive Relief

(A) Contractor acknowledges and agrees that HHS may suffer irreparable injury if Contractor or its Subcontractor fails to comply with any of the terms of this DUA with respect to the Confidential Information or a provision of HIPAA or other laws or regulations applicable to Confidential Information.

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

Section 5.06 Indemnification

Contractor shall indemnify, defend and hold harmless HHS and its respective Executive Commissioner, employees, Subcontractors, agents (including other state agencies acting on behalf of HHS) or other members of HHS' Workforce (each of the foregoing hereinafter referred to as "Indemnified Party") against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this DUA or from any acts or omissions related to this DUA by Contractor or its employees, directors, officers, Subcontractors, or agents or other members of Contractor's Workforce. The duty to indemnify, defend and hold harmless is independent of the duty to insure. Upon demand, Contractor shall reimburse HHS for any and all losses, liabilities, lost profits, fines, penalties, costs or expenses (including costs of required notices, investigation, and mitigation of a Breach, fines or penalties imposed on an Indemnified Party by a regulatory authority, and reasonable attorneys' fees) which may be imposed upon any Indemnified Party to the extent caused by and which results from the Contractor's failure to meet any of its obligations under this DUA. Contractor's obligation to defend, indemnify and hold harmless any Indemnified Party will survive the expiration or termination of this DUA.

Section 5.07 Insurance

(A) In addition to any insurance required in the Base Contract, at HHS's option, HHS may require Contractor to maintain, at its expense, the special and/or custom first- and third-party insurance coverages, including without limitation data breach, cyber liability, crime theft and notification expense coverages, with policy limits sufficient to cover any liability arising under this DUA, naming the State of Texas, acting through HHS, as an additional named insured and loss payee, with primary and noncontributory status.

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

Section 5.08 Entirety of the Contract

This DUA is incorporated by reference into the Base Contract and, together with the Base Contract, constitutes the entire agreement between the parties. No change, waiver, or discharge of obligations arising under those documents will be valid unless in writing and executed by the party against whom such change, waiver, or discharge is sought to be enforced.

Section 5.09 Automatic Amendment and Interpretation

Upon the effective date of any amendment or issuance of additional regulations to any law applicable to Confidential Information, this DUA will automatically be amended so that the obligations imposed on HHS and/or Contractor remain in compliance with such requirements. Any ambiguity in this DUA will be resolved in favor of a meaning that permits HHS and Contractor to comply with laws applicable to Confidential Information.

Section 5.10 Notices; Requests for Approval

All notices and requests for approval related to this DUA must be directed to the HHS Chief Privacy Officer at privacy@hhsc.state.tx.us.

ATTACHMENT 1. SUBCONTRACTOR AGREEMENT FORM

HHS CONTRACT NUMBER

HHS000874100009

The DUA between HHS and Contractor establishes the permitted and required uses and disclosures of Confidential Information by Contractor.

Contractor has subcontracted with _____ (Subcontractor) for performance of duties on behalf of CONTRACTOR which are subject to the DUA. Subcontractor acknowledges, understands and agrees to be bound by the same terms and conditions applicable to Contractor under the DUA, incorporated by reference in this Agreement, with respect to HHS Confidential Information. Contractor and Subcontractor agree that HHS is a third-party beneficiary to applicable provisions of the subcontract.

HHS has the right, but not the obligation, to review or approve the terms and conditions of the subcontract by virtue of this Subcontractor Agreement Form.

Contractor and Subcontractor assure HHS that any Breach as defined by the DUA that Subcontractor Discovers shall be reported to HHS by Contractor in the time, manner and content required by the DUA.

If Contractor knows or should have known in the exercise of reasonable diligence of a pattern of activity or practice by Subcontractor that constitutes a material breach or violation of the DUA or the Subcontractor's obligations, Contractor shall:

1. Take reasonable steps to cure the violation or end the violation, as applicable;
2. If the steps are unsuccessful, terminate the contract or arrangement with Subcontractor, if feasible;
3. Notify HHS immediately upon Discovery of the pattern of activity or practice of Subcontractor that constitutes a material breach or violation of the DUA and keep HHS reasonably and regularly informed about steps Contractor is taking to cure or end the violation or terminate Subcontractor's contract or arrangement.

This Subcontractor Agreement Form is executed by the parties in their capacities indicated below.

CONTRACTOR

SUBCONTRACTOR

BY: _____

BY: _____

NAME: Jafferali Jamal

NAME: _____

TITLE: Interim CEO- CFO

TITLE: _____

DATE 9/15/2020

DATE: _____