

# H-GAC

Houston-Galveston Area Council

P.O. Box 22777 · 3555 Timmons · Houston, Texas 77227-2777

Subrecipient Agreement - Contract - Galveston County - Human Services - ID: 11347 - CFDA/FALN Number: 93.044, FAIN Number: 2301TXOASS, Federal Award Date: Oct 01 2023

## GENERAL PROVISIONS

This Agreement is made and entered into, by and between the Houston-Galveston Area Council hereinafter referred to as H-GAC having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027 and Galveston County, hereinafter referred to as the Subrecipient, having its principal place of business at 722 Moody, Galveston, TX 77550.

WITNESSETH:

WHEREAS, H-GAC hereby engages the Subrecipient to perform certain services in accordance with the specifications of the Agreement; and

WHEREAS, the Subrecipient has agreed to perform such services in accordance with the specifications of the Agreement;

NOW, THEREFORE, H-GAC and the Subrecipient do hereby agree as follows:

### ARTICLE 1: LEGAL AUTHORITY

The Subrecipient warrants and assures H-GAC that it possesses adequate legal authority to enter into this Agreement. The Subrecipient's governing body, where applicable, has authorized the signatory official(s) to enter into this Agreement and bind the Subrecipient to the terms of this Agreement and any subsequent amendments hereto.

### ARTICLE 2: APPLICABLE LAWS

The Subrecipient agrees to conduct all activities under this Agreement in accordance with all applicable rules, regulations, directives, standards, ordinances, and laws, in effect or promulgated during the term of this Agreement, including without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Subrecipient shall furnish H-GAC with satisfactory proof of its compliance therewith.

### ARTICLE 3: INDEPENDENT CONTRACTOR

The execution of this Agreement and the rendering of services prescribed by this Agreement do not change the independent status of H-GAC or the Subrecipient. No provision of this Agreement or act of H-GAC in performance of the Agreement shall be construed as making the Subrecipient the agent, servant, or employee of H-GAC, the State of Texas, or the United States Government. Employees of the Subrecipient are subject to the exclusive control and supervision of the Subrecipient. The Subrecipient is solely responsible for employee related disputes and discrepancies, including employee payrolls and any claims arising therefrom.

### ARTICLE 4: WHOLE AGREEMENT

The General Provisions, Special Provisions, and Attachments, as provided herein, constitute the complete Agreement ("Agreement") between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

### ARTICLE 5: SCOPE OF WORK

The services to be performed by the Subrecipient are outlined in an Attachment to this Agreement.

### ARTICLE 6: PERFORMANCE PERIOD

This Agreement shall be performed during the period which begins Oct 01 2023 and ends Sep 30 2024. All services under this Agreement must be rendered within this performance period, unless directly specified under a written change or extension provisioned under Article 15, which shall be fully executed by both parties to this Agreement.

#### **ARTICLE 7: PAYMENT OR FUNDING**

Any payment or funding claimed by Subrecipient shall be paid by H-GAC only under the specific terms set forth in the Special Provisions and Scope of Work. Subrecipient agrees that payments are predicated upon properly documented and verified proof of performance delivered, and costs incurred by the Subrecipient, in accordance with the terms outlined by the Special Provisions of this Agreement.

#### **ARTICLE 8: REPORTING REQUIREMENTS**

If the Subrecipient fails to submit to H-GAC in a timely and satisfactory manner any report required by this Agreement, or otherwise fails to satisfactorily render performances hereunder, H-GAC may withhold payments otherwise due and owing the Subrecipient hereunder. Subrecipient's failure in reporting or performance may be considered cause for termination of this Agreement. If H-GAC withholds such payments, it shall notify the Subrecipient of its decision. Payments withheld pursuant to this Article may be held by H-GAC until such time as the delinquent obligations for which funds are withheld are fulfilled by the Subrecipient. The Subrecipient's failure to timely submit any report may also be considered cause for termination of this Agreement.

Any additional reporting requirements shall be set forth in the Special Provisions of this Agreement.

#### **ARTICLE 9: NON-FUNDING CLAUSE**

Any obligation of H-GAC created by this Agreement is conditioned upon the availability of state or federal funds appropriated or allocated for the payment of such obligations. H-GAC shall not be otherwise obligated or liable for any future payments due, or for any damages as a result of interruption of payment or termination.

#### **ARTICLE 10: INSURANCE**

Subrecipient shall maintain insurance coverage for work performed or services rendered under this Agreement as outlined and defined in the attached Special Provisions.

#### **ARTICLE 11: SUBCONTRACTS**

Except as may be set forth in the Special Provisions, the Subrecipient agrees not to subcontract, assign, transfer, convey, sublet, or otherwise dispose of this Agreement or any right, title, obligation, or interest it may have therein to any third party without prior written approval of H-GAC. The Subrecipient acknowledges that H-GAC is not liable to any subcontractor or assignee of the Subrecipient. The Subrecipient shall ensure that the performance rendered under all subcontracts shall result in compliance with all the terms and provisions of this Agreement as if the performance rendered was rendered by the Subrecipient. Subrecipient shall give all required notices, and comply with all laws and regulations applicable to furnishing and performance of the work. Except where otherwise expressly required by applicable law or regulation, H-GAC shall not be responsible for monitoring Subrecipient's compliance, or that of Subrecipient's subcontractors, with any laws or regulations.

#### **ARTICLE 12: AUDIT**

Notwithstanding any other audit requirement, H-GAC reserves the right to conduct or cause to be conducted an independent audit of any transaction under this Agreement, such audit may be performed by the H-GAC local government audit staff, a certified public accountant firm, or other auditors designated by H-GAC and will be conducted in accordance with applicable professional standards and practices. Subrecipient who spend seven-hundred fifty thousand dollars (750,000) or more of federal assistance under this contract or cumulatively under all federal contracts in a fiscal year are required to have an audit conducted annually in compliance with 2 CFR 200. Subrecipient agrees to submit all written reports of monitoring or audits to H-GAC within 30 days of issuance. Any reports that contain findings from an auditor must also include a corrective action plan from the Subrecipient in accordance with 2 CFR 200.511.

The Subrecipient understands and agrees that the Subrecipient shall be liable to the H-GAC for anything disallowed as a result of audit, in which case future payments are predicated upon repayment as set forth in the Special Provisions.

#### **ARTICLE 13: EXAMINATION OF RECORDS**

The Subrecipient shall maintain during the course of the work complete and accurate records of all of the Subrecipient's costs and documentation of items which are chargeable to H-GAC under this Agreement. H-GAC, through its staff or

designated public accounting firm, the State of Texas, and United States Government, shall have the right at any reasonable time to inspect, copy and audit those records on or off the premises by authorized representatives of its own or any public accounting firm selected by H-GAC. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. Failure to provide access to records may be cause for termination of the Agreement. The records to be thus maintained and retained by the Subrecipient shall include (without limitation): (1) personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of the Subrecipient's employees working full or part time on the work, as well as cancelled payroll checks, signed receipts for payroll payments in cash, or other evidence of disbursement of payroll payments; (2) invoices for purchases, receiving and issuing documents, and all other unit inventory records for the Subrecipient's stocks or capital items; and (3) paid invoices and cancelled checks for materials purchased and for subcontractors' and any other third parties' charges.

The Subrecipient further agrees to include in all its subcontracts, permitted pursuant to Article 11 hereof. The Subrecipient agrees that H-GAC and its duly authorized representatives shall until the expiration of seven (7) years after final payment under the subcontract or until all audit findings have been resolved, have access to and the right to examine and copy any directly pertinent books, documents, papers, invoices, and records of such subcontractor involving transactions relating to the subcontract.

#### **ARTICLE 14: RETENTION OF RECORDS**

The Subrecipient shall maintain all records pertinent to this Agreement, and all other financial, statistical, property, participant records, and supporting documentation for a period of no less than seven (7) years from the later of the date of acceptance of the final contract closeout. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the retention period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the seven (7) years, whichever is later, and until any outstanding litigation, audit, or claim has been fully resolved.

#### **ARTICLE 15: CHANGES AND AMENDMENTS**

- A. Any alterations, additions, or deletions to the terms of this Agreement, which are required by changes in federal or state Law or by regulations, are automatically incorporated without written amendment hereto, and shall become effective on the date designated by such law or by regulation.
- B. To ensure the legal and effective performance of this Agreement, both parties agree that H-GAC may amend performance under this Agreement, during the contract period, by issuing policy directives to establish or clarify performance requirements under this Agreement. After a period of no less than 30 days subsequent to written notice, unless sooner implementation is required by law, such policy directives shall have the effect of qualifying the terms of this Agreement and shall be binding upon the Subrecipient as if written herein, provided however that such policy directives shall not alter the terms of this Agreement so as to relieve H-GAC of any obligation specified in this Agreement to reimburse Subrecipient for costs properly incurred prior to the effective date of such policy directives.
- C. Except as specifically provided by subsections A and B of this Article, any other alterations, additions, or deletions to the terms of this Agreement shall be by modification hereto in writing, and executed by both parties to this Agreement.

#### **ARTICLE 16: TERMINATION PROCEDURES**

The Subrecipient acknowledges that this Agreement may be terminated for Convenience or Default.

- A. *Convenience*  
H-GAC may terminate this Agreement at any time, in whole or in part, with or without cause, whenever H-GAC determines that for any reason such termination is in the best interest of H-GAC, by providing written notice by certified mail to the Subrecipient. Upon receipt of notice of termination, all services hereunder of the Subrecipient and its employees and subcontractors shall cease to the extent specified in the notice of termination.

The Subrecipient may cancel or terminate this Agreement upon submission of thirty (30) days written notice, presented to H-GAC via certified mail. The Subrecipient may not give notice of cancellation after it has received notice of default from H-GAC.

- B. *Default*

H-GAC may, by written notice of default to the Subrecipient, terminate the whole or any part of the Agreement, in any one of the following circumstances:

- (1) If the Subrecipient fails to perform the services herein specified within the time specified herein or any extension thereof; or
- (2) If the Subrecipient fails to perform any of the other provisions of this Agreement for any reason whatsoever, or so fails to make progress or otherwise violates the Agreements that completion of services herein specified within the Agreement term is significantly endangered, and in either of these two instances does not cure such failure within a period often (10) days (or such longer period of time as may be authorized by H-GAC in writing) after receiving written notice by certified mail of default from H-GAC.

#### **ARTICLE 17: SEVERABILITY**

H-GAC and Subrecipient agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

#### **ARTICLE 18: FORCE MAJEURE**

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with H-GAC.

#### **ARTICLE 19: COPYRIGHTS**

H-GAC, and any related state or federal awarding agency, reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for state or federal government or H-GAC purposes:

- A. The copyright of all maps, data, reports, research, or other work developed under this Agreement;
- B. Any copyrights or rights of use to copyrighted material which the Subrecipient purchases with funding under this Agreement. All such data and material shall be furnished to H-GAC upon request.

#### **ARTICLE 20: OWNERSHIP OF MATERIALS**

Except as may be specified in the Special Provisions, all data, reports, research, etc., developed by the Subrecipient solely as a part of its work under this Agreement, shall become the property of the H-GAC upon completion of this Agreement, or in the event of termination or cancellation hereof. All such data and material shall be furnished to H-GAC at no charge and upon request. Subrecipient further agrees not to release information about results or deliverables connected to this Agreement to anyone outside of H-GAC, without first obtaining written release authorization from H-GAC.

#### **ARTICLE 21: POLITICAL ACTIVITY - LOBBYING**

Nothing related, connected to, or provided under this Agreement may be used in any way to attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress, or for lobbying with state or local legislators. The Subrecipient, if a recipient of Federal assistance exceeding 100,000 dollars through an H-GAC subcontract, will comply with section 319, Public Law 101-121 (31 U.S.C. 1352).

#### **ARTICLE 22: SECTARIAN INVOLVEMENT PROHIBITED**

The Subrecipient shall ensure that no funds under this Agreement are used, either directly or indirectly, in the support of any religious or anti-religious activity, worship, or instruction.

#### **ARTICLE 23: CONFLICT OF INTEREST**

No officer, member or employee of the Subrecipient or Subrecipient's subcontractor, no member of the governing body of the Subrecipient, and no other public officials of the Subrecipient who exercise any functions or responsibilities in the review or Subrecipient approval of this Agreement, shall participate in any decision relating to this Agreement which affects his or her personal interest, or shall have any personal or pecuniary interest, direct or indirect, in this Agreement.

**ARTICLE 24: FEDERAL COMPLIANCE**

Subrecipient agrees to comply with all federal statutes relating to nondiscrimination, labor standards, and environmental compliance. Additionally, for work to be performed under the Agreement or subcontract thereof, including procurement of materials or leases of equipment, Subrecipient shall notify each potential subcontractor or supplier of the Subrecipient's federal compliance obligations. These may include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) the Fair Labor Standards Act of 1938 (29 USC 676 et. seq.), (d) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990; (e) the Age Discrimination in Employment Act of 1967 (29 USC 621 et. seq.) and the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (f) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (h) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in any specific statute(s) applicable to any Federal funding for this Agreement; (k) the requirements of any other nondiscrimination statute(s) which may apply to this Agreement; (l) applicable provisions of the Clean Air Act (42 U.S.C. § 7401 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.), Section 508 of the Clean Water Act (33 U.S.C. 1251), Executive Order 11738, and the Environmental Protection Agency regulations at 40 CFR Part 15; (m) applicable provisions of the Davis- Bacon Act (40 U.S.C. 276a - 276a-7), the Copeland Act (40 U.S.C. 276c), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), as set forth in Department of Labor Regulations at 20 CFR 5.5a; (n) the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

**ARTICLE 25: PROHIBITION ON CONTRACTING WITH ENTITIES USING CERTAIN  
TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT (EFFECTIVE AUG. 13, 2020  
AND AS AMENDED OCTOBER 26, 2020)**

Pursuant to 2 CFR 200.216, Contractor shall not offer equipment, services, or system that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment or services means 1) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); 2) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); 3) telecommunications or video surveillance services provided by such entities or using such equipment; or 4) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. Respondent must comply with requirements for certifications. The provision at 48 C.F.R Section 52.204-26 requires that offerors review SAM prior to completing their required representations. This rule applies to all acquisitions, including acquisitions at or below the simplified acquisition threshold and to acquisitions of commercial items, including commercially available off the-shelf items.

**ARTICLE 26: DOMESTIC PREFERENCE**

In accordance with 2 CFR 200.322, as appropriate and to the extent consistent with law, when using federal grant award funds H-GAC should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). H-GAC must include this requirement in all subawards including all contracts and purchase orders for work or products under the federal grant award. If Contractor intends to qualify for

Purchase Orders using federal grant money, then it shall work with H-GAC to provide all required certifications and other documentation needed to show compliance.

#### **ARTICLE 27: CRIMINAL PROVISIONS AND SANCTIONS**

The Subrecipient agrees to perform the Agreement in conformance with safeguards against fraud and abuse as set forth by the H-GAC, the State of Texas, and the acts and regulations of any related state or federal agency. The Subrecipient agrees to promptly notify H-GAC of any actual or suspected fraud, abuse, or other criminal activity through the filing of a written report within twenty-four (24) hours of knowledge thereof. Subrecipient shall notify H-GAC of any accident or incident requiring medical attention arising from its activities under this Agreement within twenty-four (24) hours of such occurrence. Theft or willful damage to property on loan to the Subrecipient from H-GAC, if any, shall be reported to local law enforcement agencies and H-GAC within two (2) hours of discovery of any such act.

The Subrecipient further agrees to cooperate fully with H-GAC, local law enforcement agencies, the State of Texas, the Federal Bureau of Investigation, and any other duly authorized investigative unit, in carrying out a full investigation of all such incidents.

The Subrecipient shall notify H-GAC of the threat of lawsuit or of any actual suit filed against the Subrecipient pertaining to this Agreement or which would adversely affect the Subrecipient's ability to perform services under this Agreement.

#### **ARTICLE 28: INDEMNIFICATION AND RECOVERY**

To the extent permitted by law, H-GAC shall indemnify and hold Subrecipient harmless against any and all claims, demands, damages, liabilities, and costs incurred by Subrecipient which directly or indirectly result from, or arise in connection with, any negligent act or omission of H-GAC, its agents, or employees, pertaining to its activities and obligations under this Agreement.

Subrecipient shall indemnify and hold H-GAC, its officers, agents, and employees harmless against any and all claims, demands, damages, liabilities, and costs (including reasonable attorney fees) which directly or indirectly result from, or arise in connection with, any negligent act or omission of Subrecipient, its agents, or employees pertaining to its activities and obligations under this Agreement.

In no event will H-GAC be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits, or savings; or other incidental special or consequential damages to the full extent such use may be disclaimed by law during the period of this contract and its related procurements. If Subrecipient performs an act knowing or having reason to know that it is contrary to any law or regulation, the Subrecipient shall bear all claims, costs, losses, and damages caused by, arising out of, or resulting from that act.

#### **ARTICLE 29: TITLES NOT RESTRICTIVE**

The titles assigned to the various Articles of this Agreement are for convenience only. Titles shall not be considered restrictive of the subject matter of any Article, or part of this Agreement.

#### **ARTICLE 30: JOINT WORK PRODUCT**

This Agreement is the joint work product of H-GAC and the Subrecipient. This Agreement has been negotiated by H-GAC and the Subrecipient and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against any party.

#### **ARTICLE 31: DISPUTES**

All disputes concerning questions of fact or of law arising under this Agreement, which are not addressed within the Whole Agreement as defined pursuant to Article 4 hereof, shall be decided by the Executive Director of H-GAC or his designee, who shall reduce his decision to writing and provide notice thereof to the Subrecipient. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such notice, the Subrecipient requests a rehearing from the Executive Director of H-GAC. In connection with any rehearing under this Article, the Subrecipient shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing shall be final and conclusive. The Subrecipient may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of



competent jurisdiction. Pending final decision of a dispute hereunder, the Subrecipient shall proceed diligently with the performance of the Agreement and in accordance with H- GAC's final decision.

**ARTICLE 32: CHOICE OF LAW - VENUE**

This Agreement shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with the Agreement shall lie exclusively in Harris County, Texas.

**ARTICLE 33: ORDER OF PRIORITY**

In the case of any conflict between or within this Agreement, the following order of priority shall be utilized: 1) General Provisions, 2) Special Provisions, 3) Scope of Work, and 4) Other Attachments.

**ARTICLE 34: UNIVERSAL IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT (SAM)**

In accordance with 2 CFR Title 2, Subtitle A, Chapter I, Part 25 as it applies to a Federal awarding agency's grants, cooperative agreements, loans, and other types of Federal financial assistance as defined in 2 CFR 25.406. Contractor understands and as it relates to 2 CFR 25.205(a), a Federal awarding agency may not make a Federal award or financial modification to an existing Federal award to an applicant or recipient until the entity has complied with the requirements described in 2 CFR 25.200 to provide a valid unique entity identifier and maintain an active SAM registration ([www.SAM.gov](http://www.SAM.gov)) with current information (other than any requirement that is not applicable because the entity is exempted under § 25.110). 2 CFR 25.200(b) requires that registration in the SAM **prior to submitting an application or plan**; and maintain an active SAM registration with current information, including information on a recipient's immediate and highest level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract or grant within the last three years, if applicable, at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency; and provide its unique entity identifier in each application or plan it submits to the Federal awarding agency. To remain registered in the SAM database after the initial registration, the applicant is required to review and update its information in the SAM database on an annual basis from the date of initial registration or subsequent updates to ensure it is current, accurate and complete. At the time a Federal awarding agency is ready to make a Federal award, if the intended recipient has not complied with an applicable requirement to provide a unique entity identifier or maintain an active SAM registration with current information, the Federal awarding agency: (1) May determine that the applicant is not qualified to receive a Federal award; and (2) May use that determination as a basis for making a Federal award to another applicant.

In accordance with 2 CFR 200.323, the Houston-Galveston Area Council and the Contractor or Subrecipient must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. Pursuant to the Federal Rule above, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), the Contractor or Subrecipient certifies that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the Agreement will be at least the amount required by the applicable contract specifications or other contractual requirements.

**ARTICLE 36: PUBLIC INFORMATION ACT**

H-GAC and the Subrecipient understand and agree that H-GAC is a governmental body for purposes of the Public Information Act, codified as Chapter 552 of the Texas Government Code and as such is required to release information in accordance with the Public Information Act (the "Act"). H-GAC must rely on advice, decisions, and opinions of the Attorney General of the State of Texas relative to the disclosure of data or information. Submissions will be kept confidential in accordance with the Act and applicable law, and submissions are subject to inclusion into the public record after award. To the extent permitted by law, the Subrecipient may request in writing non-disclosure of any information that it considers to be confidential, proprietary, and/or trade secret in its submission. Such data shall accompany the submission, be readily separable from the response, and shall be CLEARLY MARKED

“CONFIDENTIAL, PROPRIETARY and/or TRADE SECRET”. H-GAC will make reasonable efforts to provide the Subrecipient notice in accordance with the Act in the event H-GAC receives a request for information under the Act for information that the Subrecipient has marked as indicated above.



**SIGNATURES:**

H-GAC and the Subrecipient have read, agreed, and executed the whole Agreement as of the date first written above, as accepted by:

**Subrecipient**

Signature

Name     Mark Henry

Title     County Judge

Date

**H-GAC**

Signature

Name     Chuck Wemple

Title     Executive Director

Date

## **SPECIAL PROVISIONS**

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Incorporated by attachment, as part of the whole agreement, H-GAC and the Galveston County do hereby agree to the following Special Provisions, as follows:

**ARTICLE 1: GOVERNING LAW, STANDARDS, AND REGULATIONS**

Galveston County shall render performance under this Agreement in accordance with: the Older Americans Act of 1965, as amended, and its regulations; HHS regulations on Administration of Grants; Title 2 Code of Federal Regulations (CFR) Part 200; 45 CFR 132 F; 45 CFR 91, and 1321, et seq.; the Uniform Grant Management Standards (UGMS), Texas Governor's Office of Budget and Planning, January 2001; all Texas Health and Human Services Commission (HHSC) Area Agency on Aging (AAA) rules as published in the Title 40 Texas Administrative Code (TAC) under Chapters 81, 83, and 85; applicable federal regulations; state rules; local ordinances; and any H-GAC policies and rules. H-GAC may, upon request or at its own discretion, provide additional standards, guidelines or requirements, to aid Galveston County in rendering appropriate performance. H-GAC's provision of this information shall in no way supersede the precedence of applicable laws and regulations.

In the event of a conflict between applicable laws and regulations in these Special Provisions and the terms and conditions of this contract, precedence will be given to the laws and regulations.

**ARTICLE 2: MANADATORY ATTACHMENTS**

In consideration of H-GAC compensation offer hereinafter described, Galveston County accepts and shall provide H-GAC approved services in consideration, as specifically described in the Scope of Work, attached hereto and mutually incorporated herein. Galveston County further agrees to implement the requirements of the Scope of Work according to the agreed upon Budget, as attached and incorporated.

**ARTICLE 3: PARTY LIABILITY**

In consideration of full and satisfactory performance hereunder, H-GAC will be liable to Galveston County in an amount equal to the actual costs incurred by Galveston County in rendering such performance, subject, but not limited, to the following limitations: 1) H-GAC is not liable for expenditures made in violation of regulations, rules or policies promulgated under applicable local, state, or federal laws, 2) Except as specifically authorized by H-GAC in writing, H-GAC is liable only for expenditures made in compliance with the applicable cost principles and administrative requirements set forth in a properly executed attachment to this Agreement, 3) H-GAC is not liable to Galveston County for costs incurred or performance rendered before the beginning date or after termination of this Agreement, 4) H-GAC is not liable for any costs incurred in the performance of this Agreement, which have not been billed to H-GAC within 30 days following termination of this Agreement.

**ARTICLE 4 PAYMENTS**

*Maximum Value*

Subject to the terms and exclusions outlined in this Agreement, and subject to the confirmation of eligibility under applicable state, local, and federal statutes; H-GAC will reimburse Subrecipient for goods, services, or expenditures on the basis of allowable costs up to the maximum value of this Agreement, or \$578,531.00. Allowable costs must be certified by Subrecipient as correct and necessary; directly associated with performance of this Agreement provisioned under the Scope of Work or other mutually executed Attachment; and properly submitted at the rates prescribed by state or federal regulations.

**UNIT RATE CONTRACT**

H-GAC agrees to make payment to the Galveston County in the amounts and upon the terms and provisions set forth in the Scope of Work and Budget attached hereto and made a part of this agreement. This contract is based on a unit-rate

reimbursement process which requires units of service, as defined in the Scope of Work, to be delivered and billed before payment is remitted to Galveston County. The unit rate identified for each service in this contract is the only reimbursement owed to Galveston County and shall be considered full compensation for services performed hereunder by all parties to this contract.

The Galveston County agrees to deliver specific services on an "at-risk" basis. Adjustments will be considered only in instances where a service the Galveston County suffers operating losses due to events over which they have no control, or reasonably could not have anticipated. Galveston County asserts that services performed under this contract are intended to provide humanitarian assistance to the elderly without a profit incentive. Should circumstances change in which the Galveston County experiences significant excess revenue over expenses due to unforeseen events, this contract may be renegotiated in whole or in part at H-GAC's request in light of such circumstances. "At-risk" unit rates will not be adjusted to offset poor management planning. Any adjustment to an "at-risk" unit rate will be judged on its own merits.

Unit rates established by H-GAC shall not exceed rates or rate limitations established by Texas Health and Human Services Commission in its rules and regulations.

#### **ARTICLE 5 MATCH REQUIREMENTS, PROGRAM INCOME, AND CONTRIBUTIONS**

**MATCH:** The Texas Health and Human Services Commission requires that federal funds be matched with non-federal funds in accordance with the Older Americans Act, as amended. These match requirements shall be the responsibility of the Galveston County in accordance with 40 TAC §85.202(i). All match contributions shall be expended for goods and services necessary for and specifically identifiable in the approved Budget attached. Match shall conform to the OAA regulations, 2 CFR Part 200 and HHSC rules regarding match requirements or as required in the request for proposals issued by the AAA.

**PROGRAM INCOME:** The definition of program income for the purpose of this agreement is specified in 2 CFR 200.80 as gross income earned that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance. Expenditures of program income will be in accordance with 40 TAC §85.202 (i), UGMS Subpart C.25 and all applicable HHSC rules. All program income and participant contributions collected and expended shall be documented and managed according to HHSC rules and regulations and AAA policies and procedures. These requirements are further imposed on all service vendors who provide service to participants in the programs served by this contract.

**CONTRIBUTIONS:** Galveston County shall provide a voluntary opportunity for each participant to contribute to the cost of the services while protecting the individual's privacy. Galveston County shall safeguard and account for the contributions, and use such contributions to expand and/or enhance program outcomes.

#### **ARTICLE 6 PERFORMANCE GOALS**

- A. **Program Performance:** Galveston County agrees to provide the services contained in the Scope of Services/Work attached as part of this agreement. Such performance includes assurance that Galveston County will serve the number of persons and units and substantially meet the performance goals and outcomes identified in the Galveston County's proposal to H-GAC as if they were included herein in their entirety.
- B. **Fiscal Management:** Galveston County shall have appropriate leadership and management structure to enable it to operate efficiently and effectively. Galveston County shall also provide a financial system to maintain internal control, ensure proper management of federal and state funds, maximize non-federal and non-state resources and maintain solvency. Galveston County shall have accounting and internal control systems appropriate to the size of the organization. The accounting system should consist of source documents, a chart of accounts, journals, ledgers, and routine financial reports. The internal controls system shall safeguard contractor's assets, produce accurate accounting data, promote efficient operations and encourage adherence to prescribed accounting policies and procedures. Effective internal controls shall involve a division of responsibility among different employees for a sequence of related functions, clear establishment of each employee's responsibilities and duties, and use of standards such as procurement

policies, proofs, checks, electronic fund transfers, and other security measures.

- C. Data Systems: Galveston County shall be supported by data systems that provide adequate information for operational efficiency and decision making. The data system shall be able to provide program performance and financial information to reflect the operation and status of the organization in adequate detail to meet the needs under this contract. Galveston County agrees to use its best efforts to safeguard confidential information and to prevent unauthorized use, dissemination, or disclosure of protected information both during the term of this contract and thereafter. Galveston County shall require its agents and employees to sign non-disclosure agreements with provisions at least as stringent as those contained in this contract.

#### **ARTICLE 7 SANCTIONS OR REMEDIAL MEASURES**

- A. Performance Sanctions. Galveston County's failure to comply with any provision of this contract and attached Scope of Services, any applicable federal or state laws, regulations and rules, and any other applicable H-GAC policies, issuances, and rules may subject Galveston County to sanctions and/or remedies imposed by H-GAC.
- B. Financial Sanctions. H-GAC retains the right to deduct the amount of any advance payment or previous overpayment made by H-GAC, from any subsequent billing submitted by Galveston County for violations under this contract. Failure to comply with the Galveston County obligations or submit billings timely is valid justification for termination of this contract or disallowance of payment. Galveston County will be liable for and will repay to H-GAC, on demand, any amounts which are not expended in compliance with this contract, or disallowed as a result of a resolution agreement. Galveston County will further be responsible for any audit exception or other payment deficiency covered by this contract and all subcontracts hereunder which is found to exist my monitoring or auditing by any party as authorized or required by H-GAC. Galveston County will be liable for such funds and will repay such funds even if the improper expenditure, if any, was made by a subcontractor of Galveston County. All repayment made by the Galveston County shall be from non-federal funds. Galveston County's failure to pay within 30 days after demand may result in legal actions to recover such funds, sanctions as set forth in this section and/or additional cost including allowable interest.
- C. If the Galveston County fails to submit to H-GAC in a timely and satisfactory manner any report required by this contract, or otherwise fails to satisfactorily render performances hereunder, H-GAC may withhold payments otherwise due and owing to Galveston County. If H-GAC withholds such payments, it will notify the Galveston County in writing of its reasons for withholding payment. Payments withheld pursuant to this paragraph may be held by H-GAC until such time as the delinquent obligations for which funds are withheld are fulfilled by the Galveston County.
- D. If the Galveston County neglected to follow procurement rules when buying inventory or equipment, H-GAC may recover funds. H-GAC may withhold payments on any invoices owed to a Galveston County if the Galveston County does not provide a current inventory when requested. H-GAC may refuse to close a contract and make a final payment to Galveston County if the Galveston County's inventory is not current with H-GAC records. H-GAC may also recover funds when Galveston County fails to report stolen or lost equipment.
- E. Notwithstanding H-GAC's exercise of its right of early termination, the Galveston County will not be relieved of any liability for damages due to H-GAC. H-GAC may withhold payment to Galveston County on this contract until such time as the exact amount of damages due to H-GAC from the Galveston County is agreed upon or is otherwise determined by H-GAC.

#### **SECTION 8 COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

Except as otherwise specifically authorized by H-GAC in writing, Galveston County will comply with the applicable cost principles and administrative requirements set forth in 2 CFR 200 and 48 CFR, Chapter 1, Part 31, (Federal Acquisition Regulations). Additionally, the Texas Office of the Governor has released guidance under the Uniform

Grant and Contract Management Standards (UGCMS) and those requirements are included herein. Where there is a conflict between federal and state requirements, federal requirements take precedence.

#### **SECTION 9 REPORTING**

In addition to the financial reporting requirements set forth in these Special Contract Provisions and H-GAC's policies and procedures, Galveston County will submit such other reports, contract closeout, requested data, and/or ad hoc reports and information on the operation and performance of this Contract as may be required by H-GAC. H-GAC shall provide a reasonable time for response, in consideration of the nature and availability of the information requested.

#### **SECTION 10 INVESTIGATIONS, MONITORING AND TECHNICAL ASSISTANCE**

- A. Galveston County agrees to cooperate with any monitoring, inspection, audit, or investigation of activities related to this Contract as may be conducted by H-GAC, applicable federal or state agencies, and the State of Texas, or their duly authorized representatives. This cooperation may include access to the premises for the purpose of questioning employees or participants and for the purpose of examining and/or photocopying any books, records, including participant records, papers, or other documents whatsoever relating to this Contract and the performance thereof.
- B. In compliance with Texas Administrative Code (TAC) Title 1, Part 15, the HHSC Uniform Contract Terms & Contract Terms & Conditions and the requirements in H-GAC's policies and procedures, Galveston County is responsible for the monitoring and review of its own service delivery and fiscal activities as authorized and described in the Scope of Services and budget attached to this contract, to ensure that its services are being provided in compliance with applicable legislation, regulations, and the terms of this Contract. Galveston County will provide to H-GAC, upon request of H-GAC, the monitoring plan that Galveston County is required to have in place and any written monitoring reports or other reports or reviews of the Galveston County's services performed by or on behalf of the Galveston County.
- C. H-GAC reserves the right to conduct, or to have conducted by designated representatives, monitoring and evaluation of Galveston County's performance as well as performances of Galveston County's subcontractors rendered under this Contract. H-GAC will notify Galveston County of any deficiencies noted during such review, and may withhold payments as appropriate based upon such review, pursuant to Special Contract Provisions Sections 4 and 7 of this Contract. H-GAC will provide technical assistance to Galveston County in correcting deficiencies noted. H-GAC may conduct follow-up visits to review the previous deficiencies and to assess the efforts made to correct them.

#### **SECTION 11 PROPERTY**

Galveston County will acquire, maintain, and/or dispose of property purchased with funds received under this Contract in accordance with 2 CFR 200, the UGCMS, and H-GAC's Contract Management policies and procedures.

#### **SECTION 12 INSURANCE**

Galveston County will obtain required insurance prior to the receipt of funds under this agreement and maintain insurance throughout the term as required by H-GAC. At a minimum, Galveston County will obtain Worker's Compensation insurance coverage, auto liability coverage, comprehensive liability including bodily injury coverage, property damage coverage, and fidelity and honesty bond coverage. Galveston County will furnish original certificates of coverage and name H-GAC as the loss payee on such coverage. Governmental entities are excluded from this provision by state and federal law.

#### **SECTION 13 SUBCONTRACTS**

- A. Galveston County may enter into subcontracts, defined herein as written legal agreements with another party that specify the terms and conditions for the provision of goods or services to be used by the Galveston County or by participants in the Galveston County's programs and which will be paid for by funds from this contract. All subcontracts must be procured in accordance with the guidance in 2 CFR 200. H-GAC reserves the right to review subcontracts and the



performance of subcontractors.

- B. All subcontracts are the sole responsibility of Galveston County. H-GAC is not responsible for the administration or payment of subcontractor of Galveston County and such contracts do not convey any liability on H-GAC for payment or acceptance of work product.
- C. All cost principles and regulations for which the Galveston County is liable shall pass through to any subcontractor under this contract and Galveston County shall assure that such provisions are included in any written agreement.

#### **SECTION 14. PREVENTION OF FRAUD AND ABUSE**

- A. Galveston County shall establish and implement reasonable internal program management procedures sufficient to ensure that its employees, participants, and subcontractors are aware of reporting suspected fraud and abuse.
- B. Within 24 hours of discovery, Galveston County shall report in writing to H-GAC any knowledge of suspected fraud, program abuse, possible illegal expenditures, unlawful activity, and violations of law and policies and procedures including patent and copyright abuse. Galveston County must report any suspicion of fraud and abuse to its H-GAC contract liaison or H-GAC's Area Agency on Aging Quality Assurance Coordinator immediately.
- C. Except as provided by law or court order, the parties to this contract will ensure the confidentiality of all incident reports. Neither Galveston County nor the H-GAC will retaliate against any person filing an incident report. Failure to comply with this Section may result in sanctions pursuant to Article 16 of the General Contract Provisions of this contract.

#### **SECTION 15. PREVENTION OF CONFLICTING INTERESTS**

In addition to Article 23 of the General Provisions, the Galveston County agrees to the following:

- A. must comply with federal and state statutes and regulations regarding standards of conduct and conflicts of interest including, but not limited to the applicable OMB circular requirements 29 CFR, Part 97.36
- B. Galveston County shall maintain on file and make available for inspection by H-GAC or its authorized agents a statement submitted by each of the members of Galveston County's governing board of directors or staff disclosing any interest, fact, or circumstance which does or which may present a potential conflict of interest. Such conflict of interest disclosure statement shall be updated as circumstances require, but in any case, it must be updated annually.
- C. Galveston County must refrain from using non-public information gained through a relationship with Texas Department of Aging Disability Services, an DADS employee, an H-GAC Board or Board employee, to seek or obtain financial gains that would be a conflict of interest or the appearance of a conflict of interest. Galveston County must avoid any real or apparent conflicts of interest.
- D. A Galveston County must disclose in writing on an annual basis to H-GAC, and as frequently as necessary: any substantial financial interest that the Galveston County or any of its employees in decision-making positions, have in a business entity that is a party to any business transaction with a Board member or Board staff who is in a decision-making position for the Board; and the existence of any conflict of interest and any appearance of a conflict of interest or lack thereof; information describing the appearance of a conflict of interest; information describing the conflict of interest; actions taken to prevent conflicts of interests from occurring; a description of the gift if the gift is greater than in value and the gift was given to a Board member or Board employee by a Galveston County or its employees. Galveston County must report this to its contract liaison within ten days.
- E. Galveston County should not employ or otherwise compensate a former Board employee who was in a Board decision-making position or worked on a particular matter concerning the Galveston County and was employed or

compensated by the Board any time during the previous 12 months. Upon request from the Galveston County, Board staff will provide clarification concerning this issue.

- F. Galveston County shall take every reasonable course of action to maintain the integrity of the expenditure of public funds under this contract and to avoid favoritism and questionable or improper conduct. The contract shall be administered in an impartial manner, free from efforts to gain personal, financial, or political benefit, tangible or intangible. Galveston County, its executive staff and employees, while administering this contract, shall avoid situations that could give the appearance that any decision was influenced by prejudice, bias, special interest, or desire for personal gain.
- G. Should Galveston County fail to abide by the foregoing covenants and affirmations regarding conflict of interest, Galveston County will not be entitled to the recovery of any costs or expenses incurred in relation to this contract and will be liable for any costs incurred or damages sustained by H-GAC relating to this contract. Such failure to perform will subject the Galveston County to sanctions as described in these Special Contract Provisions and Article 16 of the General Contract Provisions.

#### **SECTION 16. Galveston County ASSURANCES AND CERTIFICATIONS**

- A. Galveston County certifies that no funds provided under this Contract will be used in any way to attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress, or for lobbying with state or local legislators. Galveston County will comply with the requirements of Restrictions on Lobbying: Certification and Disclosure Requirements imposed by 29 CFR 93 and Article 21 of the General Provisions.
- B. Galveston County certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal department or agency.
- C. Galveston County agrees to provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988 (102 Stat. 4304, P.L. 100-690, Title V, and Subtitle D).
- D. Galveston County certifies that it is current in state franchise taxes, pursuant to Article 2.45, Texas Business Corporation Act, or that it is a non-profit corporation. Galveston County shall require any subGalveston County that will receive funds under this Contract to certify compliance with this provision by using forms found in the Contract Management policies and procedures.
- E. Galveston County certifies that the individual or business entity in this contract is not ineligible, pursuant to Texas Family Code §231.006, to receive the specified payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate. If any subcontract is subject to the requirements of Texas Family Code §231.006, Galveston County shall obtain certification of compliance with the provisions of that statute.
- F. Galveston County certifies that it has not been found guilty of unfair business practices in a judicial or state agency administrative proceeding during the preceding year. Galveston County further affirms that no officer of Galveston County has served as an officer of any company found guilty of unfair business practices in a judicial or state agency administrative proceeding during the preceding year.
- G. Galveston County certifies that it will disclose to H-GAC and any applicable federal or state agencies the name of any person who has an ownership or control interest in or is an agent or managing employee of the Galveston County who has been convicted of a criminal offense related to the person's involvement in any program under Title XVIII, XIX, or XX of the Social Security Act since the inception of these programs.

- H. Galveston County certifies that it will notify H-GAC immediately in the event of any significant change affecting the Galveston County and Galveston County's identity, such as ownership or control, name change, governing board membership, and vendor identification number.
- I. Galveston County certifies that it will comply with the requirements of the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for any individuals hired on or after November 1, 1986, who will perform any labor services under this contract.
- J. Galveston County understands and agrees that any funds available to it under this Contract are to be used only for activities that are in addition to those which would be otherwise available for existing services.

#### **SECTION 17. HOURS OF OPERATION**

Galveston County will ensure that facilities where it delivers services funded in whole or part under this Contract are open and available to the public at a minimum from Monday through Friday, 8:00a.m. to 5:00 p.m. unless otherwise approved by the contract liaison assigned to this contract.

#### **SECTION 18. SERVICES PROVIDED BY CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS**

- A. In accordance with Texas Governor's Executive Order GWB 96-10, and 2308.303(a)(9), Government Code, a charitable or faith-based organization is eligible to be a contractor to H-GAC or subcontractor to H-GAC's contractor on the same basis as any other private organization. As a contractor or subcontractor under this contract, such organization retains control over the definition, development, practice and expression of its charitable or religious beliefs except as provided by federal law.
- B. The Galveston County and any subcontractors will ensure that all funds provided through this contract are expended for services and activities described in the Scope of Services, and that no expenditures have, as their objective, the funding, sectarian worship, instruction, or proselytizing. This provision will not be interpreted to prohibit the Galveston County from contracting for goods or services with any religious institution or entity.
- C. If a charitable or faith-based organization establishes a separate account for the government funds provided through this Contract, then only the services and activities provided by those funds will be subject to audit.
- D. A charitable or faith-based provider of services or activities funded through this Contract shall reasonably apprise all customers/participants of the following:  
  
"Neither H-GAC or Galveston County's selection of a charitable or faith-based provider nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. If you, as a customer, object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider, or notify the Area Agency on Aging Compliance Officer at 713.627.3200."
- E. Galveston County will submit notification to H-GAC of any subcontract or partnership agreement developed between the Galveston County and a charitable or faith-based organization.

#### **SECTION 19. NON-ASSIGNMENT**

This contract may not be assigned. Notwithstanding any attempt to assign this contract, Galveston County shall remain fully liable on this contract and shall not be released from performing any of the terms, covenants, and conditions of this contract. The Galveston County shall be held responsible for all funds received under this contract.

## **SECTION 20. ACKNOWLEDGEMENT OF FUNDING AND SUPPORT**

Galveston County agrees to place in all literature describing its services covered under this contract, prominent notices acknowledging H-GAC, and the Texas Health and Human Services Commission.

## **SECTION 21 TARGETING**

Galveston County shall assure, in accordance with the 42 U.S. Code (USC) Section 3026, and Older Americans Act of 1965, as amended, that preference in the delivery of services is given to:

(1) eligible older individuals residing in rural areas; (2) eligible older individuals with greatest economic need (with particular attention to low-income minority individuals); (3) eligible older individuals who have greatest social need (with particular attention to low-income minority individuals); (4) eligible older individuals with severe disabilities; and, (5) eligible older individuals with limited English-speaking ability; (6) eligible older individuals with Alzheimer's Disease or related disorder with neurological and organic brain dysfunction and the caretakers of such individuals; and (7) older individuals at risk for institutional placement.

## **SECTION 22 DATA USAGE**

The Galveston County agrees to abide by the terms and conditions of the Data Usage Agreement (DUA), without modifications, which is attached to this contract and on file at the Houston-Galveston Area Council;

## **SECTION 23. CODE OF CONDUCT**

- A. Galveston County shall maintain a written code or standards of conduct, which shall govern the performance of its officers, employees or agents engaged in the award and administration of this contract supported by federal funds if a conflict, real or apparent, arises. Such a conflict would arise when: the employee, officer or agent; any member of his immediate family; his/her partner; or an organization which employs, or is about to employ any of the above, has a financial or other interest in the entity selected for award.
- B. Galveston County's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value for purpose that is or gives appearance of being motivated by a desire for private gain or favorable treatment for themselves or others, particularly those with whom they have family, business, or personal ties.
- C. No officer or member of Galveston County and no public official or officer or member of the Board of Galveston County who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this contract which affects his personal or pecuniary interest, direct or indirect, in the Galveston County or the proceeds thereof.

## **SECTION 24. RIGHT TO APPEAL**

Any applicant to provide services whose application is denied or whose contract is terminated or not renewed (except as provided in 2 CFR Part 200), has a right to appeal such action. The applicant shall give notice of appeal to H-GAC within ten calendar days after it receives H-GAC's action letter.

## **SECTION 25. DISPUTE RESOLUTION**

Galveston County agrees to:

- A. The dispute resolution process provided in H-GAC's Area Agency on Aging's Policy and Procedures Handbook, should be used as further described, by the Parties to attempt to resolve any claim for breach of contract made by the Galveston County.

- B. A Galveston County's claim for breach of this contract that the Parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in in H-GAC's Area Agency on Aging's Policy and Procedures Handbook.

**SECTION 26. SCOPE OF SERVICES, GOALS, OUTPUTS AND INCOMES**

The Galveston County agrees to provide the services set out in the attached Scope of Service which reflects the organization's approved levels of service. The Budget for these services is separately attached.

The Galveston County agrees to serve the number of persons and units and substantially meet the goals and outcomes described in Galveston County's proposal with H-GAC.

**SECTION 27. CUSTOMER COMPLAINTS AND HEARINGS**

- A. To address complaints relating to discrimination or a violation of any of the legal authorities cited in these Special Contract Provisions, H-GAC has adopted Methods of Administration approved by the U.S. Department of Health and Human Services and the U.S. Administration for Community Living establishing complaint processing procedures.
- B. Galveston County is responsible for using the complaint and hearing provisions set forth in those Methods of Administration as described in Area Agency on Aging's Policy and Procedures Handbook. This requirement includes complaints or hearings related to Galveston County's denial of service or financial assistance.

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**Older American Act Programs**  
**Title III C1 Congregate Meals**

**Program Aim** -The aims of the Older Americans Act (OAA) Title III program are to secure and maintain maximum independence and dignity in a home environment for older individuals capable of self-care with appropriate supportive service; remove individual and social barriers to economic and personal independence for older individuals; provide a continuum of care for vulnerable older individuals; and secure the opportunity for older individuals to receive managed in-home and community-based long-term care services.

**Target Population** - The target population, as designated by the OAA of 1965, as amended, are those individuals 60 years of age and older with special emphasis on service to those living in rural areas, with greatest social and economic need, minorities, severe disabilities, limited English speaking ability, and with Alzheimer's disease or related disorders.

**Program Match Requirements** - Providers may use its allocation of Title III B and/or Title C funds to pay not more than 90 percent of the costs of providing services. At least 10 percent of the costs must be provided by the provider, for each service. Providers may provide more than a 10% match (over match) if they desire. This non-federal share must be a cash match. If enough cash is not available to meet the minimum 10 percent match requirement, a combination of cash and in-kind resources may be used to meet the match requirement.

Program match consists of two components local cash and in-kind.

- **Cash Match** – Cash match are funding the provider typically receives from local funding sources and not federal or state funds. Examples of cash match are funds received from the United Way, county and city government, churches, foundations, bequests, donations, and fundraisers. Cash match must be reported to the Area Agency on Aging.
- **In-Kind Resource Match** – In-kind resources are commonly valuable space, vehicles, or volunteer hours donated. Providers may use in-kind resources in-lieu of cash, if securing cash funds is not possible. The provider must provide documentation showing that the cash match cannot be secured, and in-kind resources must be used. The provider must provide documentation demonstrating how the in-kind resources value was determined.

**Program Income** - Program Income is a donation from program participants who received services. Contributions are used to increase services in the program area where they are donated. Contributions should be collected by providers. Providers should provide participants an opportunity to contribute. Participant contributes are voluntary and are not a condition to receive services. Participants should not feel coerced to contribute.

**Emergency Conditions, Inclement Weather, Disasters and Holidays for Nutrition Services** - The meal provider must ensure there are sanitary and safe conditions for storing, thawing and reheating meals when the provider distributes chilled, frozen, or other meals for emergency conditions, inclement weather, disasters or holidays. The meal provider must also ensure the person can physically manage the meals.



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The meal must be labeled and provide the expiration date in large print with instructions for storing, thawing, and reheating, as appropriate.

Meal providers must develop and keep written procedures to address congregate meal site closures and suspension of HDMs for emergency conditions, inclement weather, disasters, and holidays. Meal providers must define emergency conditions, inclement weather, disasters, and holidays and include those terms in the contract for OAA meals.

Meal providers must ensure people receiving meals are aware of the date, or approximate date, the meal service will resume, when they stopped meals due to an emergency, inclement weather, disaster or holiday.

Meal providers must ensure to:

- keep food, facilities, and equipment available for emergencies and disasters according to a plan developed by the meal provider, who gives priority to program participants 60 years or older; and
- adopt written procedures ensuring the availability of food for eligible people during emergencies, inclement weather, disasters, and holidays.

**General Disaster Relief/Emergency Services** – Service providers are required to participate and play a role in disaster relief activities which meet the needs of the older individuals in planning for, during, and after natural, civil defense, and/or man-made disasters. Providers located in a disaster affected area and/or located near a disaster area must participate in disaster relief efforts. (See Emergency Management under General Requirements) Types of disaster relief efforts include, however not limited to: Use of provider's facilities, equipment, and vehicles, and/or meals. Providers shall maintain written policies and procedures to provide for the availability of facilities, vehicles and food for participants in emergencies and disasters. The written policies and procedures should make high risk older individuals a priority. See refer to the OAA, Texas Administrative Code (TAC), Texas Health and Human Service Commission (HHSC), Texas Department of Health Service (TDHS), and Houston-Galveston Area Agency on Aging's (AAA) policies and procedures for additional information.

**Data Usage Agreement** - The provider agrees to abide by the terms and conditions of the Data Usage Agreement (DUA), without modifications, which is attached to this contract and on file at the Houston-Galveston Area Council.

**Satisfaction Survey** – The provider shall regularly survey the consumer's satisfaction with the delivery and the quality of the services provided. Contractors shall compile and analyze the clients' satisfaction results and use the results in the development of their annual outreach plan, needs assessment, budget, and service mix considerations.

## **Houston-Galveston Area Agency on Aging**

### **Scope of Services**

### **FY 2024**

**Nutrition Training** - Meal providers must recruit, hire and train qualified staff and volunteers and must:

- establish and maintain written policies and procedures on training for all paid staff and volunteers.
- document the training per the meal provider's written policy.
- adhere to all training requirements for Certified Food Protection Managers and Food Handlers per the Texas Department of State Health Services (DSHS) rules for:
- Retail Food, Management and Personnel (25 Texas Administrative Code, Chapter 228, Subchapter B); and
- Food and Drug, Texas Food Establishments (25 Texas Administrative Code, Chapter 229, Subchapter K).

A qualified dietitian, or a certified food protection manager under the direction of the dietitian, must conduct prevention of foodborne illness training. Train all staff and volunteers who handle food prior to assuming food service assignments. Handling food includes shopping, storing, cooling, freezing, thawing, preparing, cooking, serving, cleaning, handling leftovers or any other activity when that activity involves direct contact with food.

All staff and volunteers involved in the administration or provision of nutrition services must complete one hour of training on the following topics before assuming duties:

- confidentiality of information about people served;
- managing emergency situations related to a person served;
- the meal provider's role in emergencies and disasters;
- safe and sanitary methods used in serving meals;
- requirements for delivering meals for quality and safety;
- general knowledge and basic techniques of working with people who are 60 years of or older and people with disabilities; and
- personal hygiene.

All staff and volunteers supporting advanced administrative functions must complete an added one hour of training on the following topics before assuming duties:

- meal provider forms and procedures;
  - HHSC/AAA forms and requirements;
  - nutrition services rules; and
  - policies of the meal provider and HHSC/AAA related to nutrition services.
- The food protection manager and all food handlers must complete an added two hours of training on the following topics before assuming duties:
- procedures for food storage, preparation and service;
  - prevention of food-borne illness;
  - equipment cleaning before, during, and after meal service;
  - choice of proper utensils and equipment for transporting and serving foods;
  - automatic and manual dishwashing procedures; and
  - accident prevention.

## **Houston-Galveston Area Agency on Aging**

### **Scope of Services**

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The food protection manager must complete an added six hours of training on the following topics within 30 days of employment to ensure they meet Texas dietary requirements:

- procedures for food preparation, storage and serving;
- OAA nutrition requirements for meals including nutritional needs and meal pattern requirements for people served;
- approved menus;
- use of standardized recipes;
- portion control of food; and
- quality control of flavor, consistency, texture, temperature, and appearance (including the use of garnishes).

Subrecipients must ensure an adequate number of staff persons available during the time congregate meals are provided who are certified staff must include:

- first aid;
- cardiopulmonary resuscitation; and
- operating an automatic external defibrillator, if one is available.

Documentation - Meal providers must keep documentation of training for food service staff in accordance with the meal provider's written policy and in accordance with DSHS rules (25 Texas Administrative Code, Chapters 228 and 229).

Documentation of training provided by the meal provider must include the following:

- name of the meal provider;
- date completed;
- name of the person trained;
- name of the trainer;
- topics covered; and
- date, time, and length of the training.

**Intake** - Each person requesting services requires an Intake to document eligibility and collect specific data required for the Administration for Community Living (ACL).

The intake collects the person's demographics, contact information, and other information needed for the coordination of appropriate services.

The intake documents eligibility for nutrition services provided to a person under 60 years, such as when a spouse of an eligible person receives a meal. Providers may collect income levels to determine priority populations while

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considering factors related to targeting services. All levels of income (low, moderate and high) are needed to determine target populations and inform outreach strategies.

Income levels on the intake allow HHSC to report on the number of people with “income below poverty level” receiving specific services, such as:

- care coordination;
- chore maintenance;
- day activity and health services;
- home delivered meals;
- homemaker; and
- personal assistance.

The intake process must be flexible and adapt to the needs of:

- a homebound person;
- a patient awaiting hospital discharge;
- people of widely varying ethnic and cultural characteristics;
- people who speak languages other than English; and
- people with widely varying disabilities.

The intake process is a tool to ensure they give preference to OAA targeted populations without excluding others from participating in a service when possible.

Every intake requires the following information:

- indication that staff clearly explained the Client Rights and Responsibilities and Release of Information to the person;
- date;
- consumer identification number from information management system;
- name (last name, middle initial, first name);
- gender;
- birth date;
- home address:
- city;
- state; and
- ZIP code;
- county;
- phone number;
- ethnicity;
- race;

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- indication if the person lives alone;
- indication if the person is in poverty or low income; and
- the reason for eligibility for nutrition services for person under 60.

The intake process does not require face-to-face contact with the person requesting a service. Staff can conduct the process with a caregiver or authorized representative.

The Intake form is the property of HHSC. Do not alter this required form.

**Title III C1 Congregate Meals**

**Overview** – The Older Americans Act (OAA) Title III-C, Nutrition Services includes requirements for congregate meals, nutrition screening, nutrition education, and nutrition counseling.

OAA Title III-C funds are for nutrition services that help older people in Texas live independently. The purposes of the OAA nutrition program are to reduce hunger, food insecurity and malnutrition, promote socialization of older people, and promote health and well-being of older people by giving access to nutrition and other disease prevention and health promotion services.

Subrecipients should ensure nutrition services meet requirements of the OAA that they serve only eligible individuals.

Subrecipients must keep written policies and procedures to comply with all federal and state requirements and AAA policies.

**Service Unit** – One Meal

**Service Definition** - A hot or other appropriate meal served to an eligible older individual who are served in a congregate setting. The objective is to reduce food insecurity and promote socialization of older individuals. There are two types of congregate meals.

**Program Outcome** - The service outcome is to promote better mental and physical health for older people through nutritious meals and socialization. Congregate nutrition services shall be a part of a system of services to promote independent living for the elderly by serving as a focal point for services. Providers should review carefully and adhere to the requirements of TAC. Other names used when referring to congregate meals are Title IIIC1, III C1, or C1.

**Eligibility** – To be eligible for a Title III congregate meal, a person must be:

- 60 or over; or
- the spouse of a person 60 and over who participates in the program.



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The following may also receive a meal, if the provider offers meals on the same basis as meals served to people 60 and over:

- a person who volunteers during the meal hours; or
- a person with a disability who lives in housing facilities:
  - occupied primarily by people 60 and over; and
  - where they serve congregate meals.

Subrecipients must develop procedures to allow the option to offer congregate meals to a person who provides volunteer services during the meal hours. Offering a meal to a volunteer must be on the same basis as meals provided to an eligible person who is 60 or older.

Before service initiation and at least every 12 months, complete a *DETERMINE Your Nutritional Health* checklist for each person who receives congregate meals.

**Note:** There are no citizenship or residency requirements for OAA services. Do not deny nutrition services based on citizenship or residency criteria.

**Determine Your Nutritional Health** - The Determine Your Nutritional Health checklist is a nutrition screening tool used to identify people at risk of poor nutritional health or those with malnutrition. Complete the DETERMINE Your Nutritional Health checklist at intake for all people receiving congregate meals, HDMs or nutrition counseling.

Complete the DETERMINE Your Nutritional Health checklist annually, within 30 days of the anniversary of the person's initial risk assessment date. Do not alter the content of the required form.

People at high nutritional risk are those who score six or higher on the DETERMINE Your Nutritional Health checklist. Use the checklist to measure a person's change in level of nutritional risk over time and assess the need for nutrition counseling. Overall nutritional scores help evaluate the effectiveness of the nutrition program, and trends inform topics for future nutrition education events.

The person requesting congregate or HDMs can complete the DETERMINE Your Nutritional Health checklist or, when needed, complete the list through an interview with the person. After assessment the person should keep the handout with the date of the screening and the results score.

**Service Activities** - Activities include provision of meals and ongoing nutrition outreach. Other services, including information and referral, access to congregate meal sites, health and nutrition educational programs, or recreational activities may also be provided by resources other than the Older Americans Act.

**Documentation** - A unit of service equals one meal served in accordance with the Texas Health and Human Services Commission's (HHSC) Title III Nutrition Service Standards. The provider shall maintain official files containing



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information that identifies [program](#) participants, eligibility documents and [date the meal was provided](#). The provider shall use only the reporting and documentation forms provided by the [HHSC and/or](#) Area Agency.

Provider forms and documents required for this service include the following: Client Checklist, Client Intake, [Determine Your Nutritional Health checklist](#), Client Information Release (if applicable), Participant Rights and Responsibilities, Request for Service(s), Client/Service Change of Status, Monthly Invoice, Nutrition Education Sign-in Sheet, and Service Delivery Log.

The following forms must be complete for all new Title III Congregate Meal participants: Client Checklist, Client Request for Service(s), Participant Rights and Responsibilities, and Nutrition Risk Screening. **The forms must be updated and submitted to the AAA annually upon reassessment for existing participants.** Client/Service Change of Status and Client Information Release (if applicable) shall be submitted when necessary. Client Grievance and Participant Contribution Policies should be posted in the senior center and provided to the client during the Intake and Assessment process

**Frequency of Service** - [A meal provider must serve five meals a week at a minimum unless HHSC approves a request to serve less. Providers must serve five meals a week to eligible people for a total of 250 meals a year. Meal providers must serve meals in a congregate setting and must conform to all standards and requirements for nutrition services in this handbook.](#)

[A congregate meal may be a hot or other suitable meal per day, and any added meals the provider chooses to serve at the congregate site.](#)

[Meal providers who serve rural areas may request HHSC permission to serve less than five congregate meals each week per person. For more guidance, see \[Serving Fewer than Five Meals a Week\]\(#\).](#)

[A rural area is any area not considered urban. Urban areas are \(1\) a central place and its adjacent densely settled territories with a combined minimum population of 50,000; and \(2\) an incorporated place or a census designated place with 20,000 or more inhabitants.](#)

[Serving Fewer than Five Meals a Week](#) - [The provision of congregate or HDMs is based on providing at least five meals a week and allowing 10 days a year for observing holidays.](#)

[All meal providers must make at least five meals a week available and congregate meal sites must be open to make meals available at least 250 days a year.](#)

[If a provider covers a rural area and it is not possible to meet that minimum requirement, request HHSC approval for the provider to serve fewer than five meals a week. A meal provider can serve less than five meals a week in different parts of their total service area. HHSC approval to serve fewer than five meals a week for those individual sites is not needed if the congregate provider has multiple sites that, in total, make available 250 meals each year.](#)

[For provider requests to serve fewer than five meals per week, review the request and:](#)

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- verify the information to ensure it is not possible for the provider to make five meals available each week;
- submit the request to HHSC for approval;
- ensure the provider does not implement a reduction in serving days or provide fewer than five meals a week until HHSC approves the request; and
- notify the provider of HHSC's approval or disapproval of the request.

**Note:** Meal providers must comply with their disaster plan when an emergency or inclement weather prohibits the provision of regularly scheduled meals.

Second Meals served by a Congregate Meal Provider - The following meals are eligible meals counted and reported in the AAA as Nutrition Services Incentive Program (NSIP) eligible if they meet all the conditions for NSIP eligibility:

*Second Congregate Meal Provided at a Single Setting for Consumption at Another Time* – A chilled, frozen, or shelf-stable meal sent home with an eligible person for a holiday, inclement weather or for an older person who is identified as “nutritionally high risk”. Report and count the meal as a home delivered meal.

*More than One Congregate Meal per Day* – Congregate meal providers may serve more than one meal per day. Individual meals include the provision of breakfast, lunch or dinner consumed at separate settings during the same day.

The following meals are not eligible meals and not counted or reported to the AAA. They do not meet NSIP eligibility. Not funded by AAA, program income or matching funds, other funds must support these meals:

*Second Congregate Meal Served and Consumed at a Single Setting* – A second meal served and consumed in a congregate setting is an “add-on” and constitutes the provision of a second Recommended Dietary Allowances (RDA) meal. This applies to any second meal served and consumed at a single setting.

**Congregate Meal Site Closure** - The decision to close a meal facility or change meal service is the responsibility of a meal provider's executive management, and AAA/HHSC does not have the authority to insist a nutrition provider remain open or close due to a health emergency or natural weather situation.

When a congregate site must temporarily close, the site must activate its emergency preparedness plan or business continuity plan. Meal providers must detail how they will provide meals for people at high nutritional risk in their plans. A score a six or higher shows a high nutritional risk on the DETERMINE Your Nutritional Risk Checklist.

Meal providers may provide chilled, frozen or shelf-stable meals to people who participate in the program for consumption at home during the site closure. The meal consumed at home rather than at the congregate site is reimbursed as a home delivered meal (HDM).

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The congregate meal provider's executive management must notify the AAA of the closure. If the temporary site closure exceeds the length of time outlined in the site's plans, the AAA and the meal provider must work together to decide how they will continue to serve people.

Promotion of socialization is one of the purposes of the nutrition program so meal providers may not set up a regular takeout meal service. AAAs must ensure they, and their subrecipients, resume regular congregate meal services upon conclusion of the emergency or other situation.

**Holiday Meal Delivery** - Providers are required to provide holiday meal(s) on or before the actual day of the holiday. Providers should make holiday meals available to all eligible program participants. The meals(s) must be counted and reported on the same day the client received them, not when they were intended to be eaten.

**Disaster Relief/Emergency Meals** – Providers must furnish shelf stable meals for eligible participants effected by a disaster or emergency. A minimum of 5 meals should be provided per delivery, particularly during hurricane season. Emergency shelf stable meals should be provided in advance to known weather related events. If possible, emergency meals should be provided to eligible participants pre and post a disaster. Providers should have the necessary storage space to supply the appropriate amount of shelf stable meals. Providers will be reimbursed for emergency meals when the meals are delivered to eligible participants. Providers will not be reimbursed for shelf stable meals purchased to meet their contracted service delivery performance goals. Providers must maintain weather related documentation supporting the providers distribution of emergency meals. Examples of documentation are printed weather reports, disaster declaration, or emails from the State or the Area Agency on Aging.

**Nutrition Education** – Nutrition education helps to promote nutritional well-being and to delay the onset of adverse health conditions from poor nutritional health or sedentary behavior by providing accurate and culturally sensitive information and instruction on nutrition, physical fitness, or health (as it relates to nutrition).

Design material to provide participants with the understanding, skills, and motivation necessary to make informed food, activity, and behavioral choices that can improve their health and prevent chronic disease.

A qualified dietitian or a person with equivalent education and training in nutrition science must develop and approve the material. After the qualified dietitian or other qualified person provides training and guidance on using the materials, a nurse, social worker, therapist, congregate meal site director, wellness coordinator or other person may provide the nutrition education session.

While educational or informational flyers or handouts are good reinforcements of nutrition education, the distribution of flyers or handouts alone is not nutrition education.

Provide nutrition education to all recipients of nutrition services at least once every 12 months. Participants must receive at least 15 minutes of nutrition education annually.

Provide nutrition education to recipients of congregate meals in group settings or one-on-one.

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**Documentation** - Document that nutrition education was provided and include the following:

- name of the meal provider;
- date of the session;
- name of the person providing the education;
- lesson plan or curriculum approved by the qualified dietitian; and
- name of each person receiving the service.

**Reporting** - Report the total units of service and the estimated number of eligible people who received nutrition education.

A unit of service = one session per participant. Count a session for every eligible person attending a nutrition education session.

**Documentation** - Providers are required provide older individuals nutrition screening and nutrition education, and nutrition assessment and counseling if appropriate, based on the needs of the meal participants. Nutrition Education must be designed by a licensed dietitian or an individual with equivalent education and training in nutrition science. Individuals performing Nutrition Educational activities must be a dietitian or be trained by a dietitian before services can be rendered. The Nutrition Education training must be documented.

The Area Agency, through a licensed nutrition consultant, will provide contractors with required Nutrition Education material, staff training, and Nutrition Education Sign-in Sheets. Providers are required to provide program participants with Nutrition Education at a minimum annually, during the consumer assessment and reassessment. Providers are required to submit Nutrition Education documentation to the Area Agency.

**Nutrition Outreach** – A written nutrition outreach plan shall be developed and implemented with emphasis on the preferred target group as defined in the TAC. Nutrition outreach service expenses should be included in budgeted costs for Congregate and Home-delivered meals.

**Facilities Compliance** - Providers shall follow procedures and maintain facilities that are following all applicable federal, state and local fire, health, sanitation, safety laws and regulations, and the Older Americans Act. All food preparation, handling, and service activities shall comply with Texas Department of Health Services' (DHS) "Rules on Food Service Sanitation." The provider must provide a copy of all required inspection results to the Area Agency within five calendar days of receipt of the results.

**Political Activity** - Congregate meal sites must not be used for political campaigning except in those instances where a representative from both political parties running in the campaign are given an equal opportunity to take part or distribute political materials.

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**Religious Activities and Prayer** - A congregate site or its staff must not sponsor, lead or organize religious activity and prayer. Do not prohibit a person from praying silently or audibly at a congregate meal site if the person so chooses.



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**Older American Act Programs**  
**Title III Demand/Response Transportation Services**

**Program Aim** -The aims of the Older Americans Act (OAA) Title III program are to secure and maintain maximum independence and dignity in a home environment for older individuals capable of self-care with appropriate supportive service; remove individual and social barriers to economic and personal independence for older individuals; provide a continuum of care for vulnerable older individuals; and secure the opportunity for older individuals to receive managed in-home and community-based long-term care services.

**Target Population** - The target population, as designated by the OAA of 1965, as amended, are those individuals 60 years of age and older with special emphasis on service to those living in rural areas, with greatest social and economic need, minorities, severe disabilities, limited English speaking ability, and with Alzheimer's disease or related disorders.

**Program Match Requirements** - Providers may use its allocation of Title III B and/or Title C funds to pay not more than 90 percent of the costs of providing services. At least 10 percent of the costs must be provided by the provider, for each service. Providers may provide more than a 10% match (over match) if they desire. This non-federal share must be a cash match. If enough cash is not available to meet the minimum 10 percent match requirement, a combination of cash and in-kind resources may be used to meet the match requirement.

Program match consists of two components local cash and in-kind.

- **Cash Match** – Cash match are funding the provider typically receives from local funding sources and not federal or state funds. Examples of cash match are funds received from the United Way, county and city government, churches, foundations, bequests, donations, and fundraisers. Cash match must be reported to the Area Agency on Aging.
- **In-Kind Resource Match** – In-kind resources are commonly valuable space, vehicles, or volunteer hours donated. Providers may use in-kind resources in-lieu of cash, if securing cash funds is not possible. The provider must provide documentation showing that the cash match cannot be secured, and in-kind resources must be used. The provider must provide documentation demonstrating how the in-kind resources value was determined.

**Program Income** - Program Income is a donation from program participants who received services. Contributions are used to increase services in the program area where they are donated. Contributions should be collected by providers. Providers should provide participants an opportunity to contribute. Participant contributes are voluntary and are not a condition to receive services. Participants should not feel coerced to contribute.

**Emergency Conditions, Inclement Weather, Disasters and Holidays for Nutrition Services** - The meal provider must ensure there are sanitary and safe conditions for storing, thawing and reheating meals when the provider distributes chilled, frozen, or other meals for emergency conditions, inclement weather, disasters or holidays. The meal provider must also ensure the person can physically manage the meals.



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The meal must be labeled and provide the expiration date in large print with instructions for storing, thawing, and reheating, as appropriate.

Meal providers must develop and keep written procedures to address congregate meal site closures and suspension of HDMs for emergency conditions, inclement weather, disasters, and holidays. Meal providers must define emergency conditions, inclement weather, disasters, and holidays and include those terms in the contract for OAA meals.

Meal providers must ensure people receiving meals are aware of the date, or approximate date, the meal service will resume, when they stopped meals due to an emergency, inclement weather, disaster or holiday.

Meal providers must ensure to:

- keep food, facilities, and equipment available for emergencies and disasters according to a plan developed by the meal provider, who gives priority to program participants 60 years or older; and
- adopt written procedures ensuring the availability of food for eligible people during emergencies, inclement weather, disasters, and holidays.

**General Disaster Relief/Emergency Services** – Service providers are required to participate and play a role in disaster relief activities which meet the needs of the older individuals in planning for, during, and after natural, civil defense, and/or man-made disasters. Providers located in a disaster affected area and/or located near a disaster area must participate in disaster relief efforts. (See Emergency Management under General Requirements) Types of disaster relief efforts include, however not limited to: Use of provider's facilities, equipment, and vehicles, and/or meals. Providers shall maintain written policies and procedures to provide for the availability of facilities, vehicles and food for participants in emergencies and disasters. The written policies and procedures should make high risk older individuals a priority. See refer to the OAA, Texas Administrative Code (TAC), Texas Health and Human Service Commission (HHSC), Texas Department of Health Service (TDHS), and Houston-Galveston Area Agency on Aging's (AAA) policies and procedures for additional information.

**Data Usage Agreement** - The provider agrees to abide by the terms and conditions of the Data Usage Agreement (DUA), without modifications, which is attached to this contract and on file at the Houston-Galveston Area Council.

**Satisfaction Survey** – The provider shall regularly survey the consumer's satisfaction with the delivery and the quality of the services provided. Contractors shall compile and analyze the clients' satisfaction results and use the results in the development of their annual outreach plan, needs assessment, budget, and service mix considerations.

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**Nutrition Training** - Meal providers must recruit, hire and train qualified staff and volunteers and must:

- establish and maintain written policies and procedures on training for all paid staff and volunteers.
- document the training per the meal provider's written policy.
- adhere to all training requirements for Certified Food Protection Managers and Food Handlers per the Texas Department of State Health Services (DSHS) rules for:
  - Retail Food, Management and Personnel (25 Texas Administrative Code, Chapter 228, Subchapter B); and
  - Food and Drug, Texas Food Establishments (25 Texas Administrative Code, Chapter 229, Subchapter K).

A qualified dietitian, or a certified food protection manager under the direction of the dietitian, must conduct prevention of foodborne illness training. Train all staff and volunteers who handle food prior to assuming food service assignments. Handling food includes shopping, storing, cooling, freezing, thawing, preparing, cooking, serving, cleaning, handling leftovers or any other activity when that activity involves direct contact with food.

All staff and volunteers involved in the administration or provision of nutrition services must complete one hour of training on the following topics before assuming duties:

- confidentiality of information about people served;
- managing emergency situations related to a person served;
- the meal provider's role in emergencies and disasters;
- safe and sanitary methods used in serving meals;
- requirements for delivering meals for quality and safety;
- general knowledge and basic techniques of working with people who are 60 years of or older and people with disabilities; and
- personal hygiene.

All staff and volunteers supporting advanced administrative functions must complete an added one hour of training on the following topics before assuming duties:

- meal provider forms and procedures;
- HHSC/AAA forms and requirements;
- nutrition services rules; and
- policies of the meal provider and HHSC/AAA related to nutrition services.
- The food protection manager and all food handlers must complete an added two hours of training on the following topics before assuming duties:
  - procedures for food storage, preparation and service;
  - prevention of food-borne illness;
  - equipment cleaning before, during, and after meal service;
  - choice of proper utensils and equipment for transporting and serving foods;
  - automatic and manual dishwashing procedures; and
  - accident prevention.

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The food protection manager must complete an added six hours of training on the following topics within 30 days of employment to ensure they meet Texas dietary requirements:

- procedures for food preparation, storage and serving;
- OAA nutrition requirements for meals including nutritional needs and meal pattern requirements for people served;
- approved menus;
- use of standardized recipes;
- portion control of food; and
- quality control of flavor, consistency, texture, temperature, and appearance (including the use of garnishes).

Subrecipients must ensure an adequate number of staff persons available during the time congregate meals are provided who are certified staff must include:

- first aid;
- cardiopulmonary resuscitation; and
- operating an automatic external defibrillator, if one is available.

Documentation - Meal providers must keep documentation of training for food service staff in accordance with the meal provider's written policy and in accordance with DSHS rules (25 Texas Administrative Code, Chapters 228 and 229).

Documentation of training provided by the meal provider must include the following:

- name of the meal provider;
- date completed;
- name of the person trained;
- name of the trainer;
- topics covered; and
- date, time, and length of the training.

**Intake** - Each person requesting services requires an Intake to document eligibility and collect specific data required for the Administration for Community Living (ACL).

The intake collects the person's demographics, contact information, and other information needed for the coordination of appropriate services.

The intake documents eligibility for nutrition services provided to a person under 60 years, such as when a spouse of an eligible person receives a meal. Providers may collect income levels to determine priority populations while

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considering factors related to targeting services. All levels of income (low, moderate and high) are needed to determine target populations and inform outreach strategies.

Income levels on the intake allow HHSC to report on the number of people with “income below poverty level” receiving specific services, such as:

- care coordination;
- chore maintenance;
- day activity and health services;
- home delivered meals;
- homemaker; and
- personal assistance.

The intake process must be flexible and adapt to the needs of:

- a homebound person;
- a patient awaiting hospital discharge;
- people of widely varying ethnic and cultural characteristics;
- people who speak languages other than English; and
- people with widely varying disabilities.

The intake process is a tool to ensure they give preference to OAA targeted populations without excluding others from participating in a service when possible.

Every intake requires the following information:

- indication that staff clearly explained the Client Rights and Responsibilities and Release of Information to the person;
- date;
- consumer identification number from information management system;
- name (last name, middle initial, first name);
- gender;
- birth date;
- home address:
- city;
- state; and
- ZIP code;
- county;
- phone number;
- ethnicity;
- race;

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- indication if the person lives alone;
- indication if the person is in poverty or low income; and
- the reason for eligibility for nutrition services for person under 60.

The intake process does not require face-to-face contact with the person requesting a service. Staff can conduct the process with a caregiver or authorized representative.

The Intake form is the property of HHSC. Do not alter this required form.

**Meal providers must ensure people receiving meals are aware of the date, or approximate date, the meal service will resume, when they stopped meals due to an emergency, inclement weather, disaster or holiday.**

**Meal providers must ensure to:**

- keep food, facilities, and equipment available for emergencies and disasters according to a plan developed

**by the meal provider, who gives priority to program participants 60 years or older; and**

- adopt written procedures ensuring the availability of food for eligible people during emergencies, inclement

**weather, disasters, and holidays.**

**General Disaster Relief/Emergency Services – Service providers are required to participate and play a role in disaster relief activities which meet the needs of the older individuals in planning for, during, and after natural, civil defense, and/or man-made disasters. Providers located in a disaster affected area and/or located near a disaster area must participate in disaster relief efforts. (See Emergency Management under General Requirements) Types of disaster relief efforts include, however not limited to: Use of provider's facilities, equipment, and vehicles, and/or meals. Providers shall maintain written policies and procedures to provide for the availability of facilities, vehicles and food for participants in emergencies and disasters. The written policies and procedures should make high risk older individuals a priority. See refer to the OAA, Texas Administrative Code (TAC), Texas Health and Human Service Commission (HHSC), Texas Department of Health Service (TDHS), and Houston-Galveston Area Agency on Aging's (AAA) policies and procedures for additional information.**

**Data Usage Agreement - The provider agrees to abide by the terms and conditions of the Data Usage Agreement (DUA), without modifications, which is attached to this contract and on file at the Houston-Galveston Area Council.**

**Satisfaction Survey – The provider shall regularly survey the consumer's satisfaction with the delivery and the quality of the services provided. Contractors shall compile and analyze the clients' satisfaction results and use**



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**the results in the development of their annual outreach plan, needs assessment, budget, and service mix considerations.**

**Nutrition Training - Meal providers must recruit, hire and train qualified staff and volunteers and must:**

- **establish and maintain written policies and procedures on training for all paid staff and volunteers.**
- **document the training per the meal provider's written policy.**
- **adhere to all training requirements for Certified Food Protection Managers and Food Handlers per the Texas Department of State Health Services (DSHS) rules for:**
- **Retail Food, Management and Personnel (25 Texas Administrative Code, Chapter 228, Subchapter B); and**
- **Food and Drug, Texas Food Establishments (25 Texas Administrative Code, Chapter 229, Subchapter K).**

**A qualified dietitian, or a certified food protection manager under the direction of the dietitian, must conduct prevention of foodborne illness training. Train all staff and volunteers who handle food prior to assuming food service assignments. Handling food includes shopping, storing, cooling, freezing, thawing, preparing, cooking, serving, cleaning, handling leftovers or any other activity when that activity involves direct contact with food.**

**All staff and volunteers involved in the administration or provision of nutrition services must complete one hour of training on the following topics before assuming duties:**

- **confidentiality of information about people served;**
- **managing emergency situations related to a person served;**
- **the meal provider's role in emergencies and disasters;**
- **safe and sanitary methods used in serving meals;**
- **requirements for delivering meals for quality and safety;**
- **general knowledge and basic techniques of working with people who are 60 years of or older and people with disabilities; and**
- **personal hygiene.**

**All staff and volunteers supporting advanced administrative functions must complete an added one hour of training on the following topics before assuming duties:**

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- meal provider forms and procedures;
- HHSC/AAA forms and requirements;
- nutrition services rules; and
- policies of the meal provider and HHSC/AAA related to nutrition services.

• The food protection manager and all food handlers must complete an added two hours of training on the

following topics before assuming duties:

- procedures for food storage, preparation and service;
- prevention of food-borne illness;
- equipment cleaning before, during, and after meal service;
- choice of proper utensils and equipment for transporting and serving foods;
- automatic and manual dishwashing procedures; and
- accident prevention.

The food protection manager must complete an added six hours of training on the following topics within 30 days of employment to ensure they meet Texas dietary requirements:

- procedures for food preparation, storage and serving;
- OAA nutrition requirements for meals including nutritional needs and meal pattern requirements for people served;
- approved menus;
- use of standardized recipes;
- portion control of food; and
- quality control of flavor, consistency, texture, temperature, and appearance (including the use of garnishes).

Subrecipients must ensure an adequate number of staff persons available during the time congregate meals are provided who are certified staff must include:

- first aid;

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- cardiopulmonary resuscitation; and
- operating an automatic external defibrillator, if one is available.

**Documentation - Meal providers must keep documentation of training for food service staff in accordance with the meal provider's written policy and in accordance with DSHS rules (25 Texas Administrative Code, Chapters 228 and 229).**

**Documentation of training provided by the meal provider must include the following:**

- name of the meal provider;
- date completed;
- name of the person trained;
- name of the trainer;
- topics covered; and
- date, time, and length of the training.

**Intake - Each person requesting services requires an Intake to document eligibility and collect specific data required for the Administration for Community Living (ACL).**

**The intake collects the person's demographics, contact information, and other information needed for the coordination of appropriate services.**

**The intake documents eligibility for nutrition services provided to a person under 60 years, such as when a spouse of an eligible person receives a meal. Providers may collect income levels to determine priority populations while considering factors related to targeting services. All levels of income (low, moderate and high) are needed to determine target populations and inform outreach strategies.**

**Income levels on the intake allow HHSC to report on the number of people with "income below poverty level" receiving specific services, such as:**

- care coordination;
- chore maintenance;
- day activity and health services;
- home delivered meals;
- homemaker; and



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- **personal assistance.**

**The intake process must be flexible and adapt to the needs of:**

- **a homebound person;**
- **a patient awaiting hospital discharge;**
- **people of widely varying ethnic and cultural characteristics;**
- **people who speak languages other than English; and**
- **people with widely varying disabilities.**

**The intake process is a tool to ensure they give preference to OAA targeted populations without excluding others from participating in a service when possible.**

**Every intake requires the following information:**

- **indication that staff clearly explained the Client Rights and Responsibilities and Release of Information to**

**the person;**

- **date;**
- **consumer identification number from information management system;**
- **name (last name, middle initial, first name);**
- **gender;**
- **birth date;**
- **home address:**
- **city;**
- **state; and**
- **ZIP code;**
- **county;**
- **phone number;**

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- **ethnicity;**
- **race;**
- **indication if the person lives alone;**
- **indication if the person is in poverty or low income; and**
- **the reason for eligibility for nutrition services for person under 60.**

**The intake process does not require face-to-face contact with the person requesting a service. Staff can conduct the process with a caregiver or authorized representative.**

**The Intake form is the property of HHSC. Do not alter this required form.**

**Title III B – Demand/Response Transportation Services**

**Service Definition – Services that provide for, or arrange for, taking an older person from one location to another. Does not include any other activity.**

**Demand or Response Transportation: designed to carry an older person from a specific origin to a specific destination upon request. An older person requests the transportation service in advance of their need, usually twenty-four to forty-eight hours prior to the trip.**

**Service Unit – One, One-Way Trip. A unit of service is a one-way trip provided to an eligible person from one location to another.**

**Program Outcome - Transportation services shall provide access to needed services which maintain the independence and dignity of the elderly. Providers shall adhere to the requirements of the TAC in the delivery of services. Transportation is a Title IIIB service.**

**Eligibility Requirements – Clients must be 60 years of age or older. Eligible participants shall not be denied transportation services by any transit provider, funded by the Older Americans Act, because they cannot afford to pay for and/or do not wish to contribute to the service.**

**The OAA does not allow transportation services to be offered to:**

- **a spouse or family member who is under 60 years of age,**
- **an individual with disabilities who is under 60 years of age and lives with an older individual, or**
- **an individual who is a paid caregiver assisting an older individual.**

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**The OAA does allow individuals who are under 60 years of age to financial contribute to transportation services or the service provider may use funds from other funding sources.**

**Documentation - A unit of service is a one-way trip provided to an eligible person from one location to another. The provider shall maintain official files containing information that identifies regular participants, documents eligibility, and gives procedures for emergency care. The provider shall use only the reporting and documentation forms provided by the Area Agency. Provider forms and documents for this service include the following: Client Checklist, Client Intake, Client Information Release (if applicable), Participant Rights and Responsibilities, Request for Service(s), Client/Service Change of Status, Monthly Invoice, and Service Delivery Log.**

**The following forms must be complete for all new Title III Transportation clients: Client Checklist, Client Request for Service(s), Client Intake, and Participant Rights and Responsibilities. The forms must be updated and submitted to the AAA annually upon reassessment for existing clients. The Client/Service Change of Status and Client Information Release shall be submitted when necessary. Grievance Policy and Participant Contribution Policy should be posted in the vehicle and provided to the client during the Intake and Assessment process.**

**Service Delivery - Transportation services shall be designed by transit providers in accordance with the Americans with Disability Act of 1990. Transportation services shall be provided to and from activities only as specified by the Area Agency.**

**Eligible trips include: trips for medical purposes, for essential shopping, and to the senior center. Title III funds shall not be used to cover the costs of trips for recreational purposes outside the county where nutrition and in-home services are provided. Allowable trips, in order of priority are as follows:**

- Medical Trips - any related trip including to doctor's office, vaccination appointment, medical testing, dental appointments, hospitals, health clinics, ophthalmic visits, pharmacy, or any other essential medical purposes.**
- Essential Shopping - includes grocery shopping, bill payment, public benefit offices, post office, employment, beauty and barbershops.**
- Senior Center - trips to participate in services in a senior center including meals, nutrition education programs, physical fitness programs, health screening, volunteer opportunities, and recreational activities in the center.**

**Accident Reporting - The transit provider shall call the Area Agency the day of the accident and complete and file an accident report with the Area Agency on Aging.**

**Drivers – Drivers must:**

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- **Be at least 19 years old.**
- **Hold a valid driver's license issued by the state of Texas.**
- **Undergo a criminal background check and not have been convicted or received a deferred or probated sentence for any crime, which includes any sexual offense, drug-related offense, homicide, theft, assault, battery or a crime involving personal injury or threat to another person.**
- **Ensure passengers are protected from harm, abuse, self-abuse, neglect, sexual incidents, serious injuries and other sources of immediate danger.**
- **Be able to provide emergency care or have an established plan to get emergency care.**
- **Be trained in effective communication skills with people who have mental illness.**
- **Recognize and plan for problematic behaviors in a therapeutic and safe manner.**
- **Know the statutes and standards for transporting patients.**
- **Transport patients in a vehicle that:**
  - **Has a current, valid Texas inspection sticker.**
  - **Is well maintained and in good mechanical condition.**
  - **Must have a working air conditioner, heater and chemical-type fire extinguisher that can hold at least one quart and is in the same compartment of the vehicle as the driver.**

**Contractors must:**

- **Ensure all drivers and vehicles meet the criteria above.**
- **Equip the vehicle with safety locks to keep a patient from exiting a moving car.**
- **Equip the vehicle or driver with a two-way radio or cellular phone that works during the entire transport period.**

- **Provide drivers with vehicles that meet the standards below if transporting patients in wheelchairs.**  
**Vehicles must have:**

- o **An electrical or hydraulically operated lift mechanism or ramp with a non-skid surface.**
- o **A means of securing a wheelchair to the inside of the vehicle to prevent any lateral, forward, backward or vertical motion of the wheelchair within the vehicle.**

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- o A rear-view mirror that lets the driver see any passenger in a wheelchair.**
- o An emergency exit at the back of the vehicle.**

**Training - Transit providers shall provide transit staff and volunteers with training in the areas of:**

- Scheduling and dispatching**
- Defensive driving**
- Passenger handling and assistance**
- First aid, and**
- CPR training**

**Transit providers shall provide new staff and volunteers with training within the 1st six months of employment. Existing staff shall provide training annually.**

**Galveston County Parks & Cultural Services****Houston-Galveston Area Council****Fiscal Year 2024****Budget Summary****October 1, 2023- September 30, 2024**

<b>Service Description</b>	<b>Unit Rate</b>	<b>Approved Units</b>	<b>OAA Funds</b>	<b>Matching Funds</b>	<b>Program Income</b>	<b>Total Funding</b>
<b>Transportation-Demand/Response</b>						
Title III B Transportation	\$ 8.92	16,600	\$ 148,076			\$ 148,076
Local Match	\$ -			\$ -		-
Cash Match	\$ 8.92	1,938		17,287		17,287
In-Kind Match				-		-
<b>Subtotal</b>		<b>18,538</b>	<b>\$ 148,076</b>	<b>\$ 17,287</b>		<b>\$ 165,363</b>
Program Income	\$ 8.92	20			\$ 178	\$ 178
<b>Transportation Total</b>		<b>18,558</b>	<b>\$ 148,076</b>	<b>\$ 17,287</b>	<b>\$ 178</b>	<b>\$ 165,541</b>
<b>Congregate Meals</b>						
Title III Congregate Meals	\$ 6.50	56,929	\$ 370,040			\$ 370,040
Local Match	\$ 0.64			\$ 36,435		36,435
Cash Match	\$ 7.14	122		871		871
In-Kind Match						-
<b>Subtotal</b>		<b>57,051</b>	<b>\$ 370,040</b>	<b>\$ 37,306</b>		<b>\$ 407,346</b>
Program Income	\$ 7.14	15			\$ 107	\$ 107
<b>Title III C1 Total</b>		<b>57,066</b>	<b>\$ 370,040</b>	<b>\$ 37,306</b>	<b>\$ 107</b>	<b>\$ 407,453</b>
American Rescue Plan	\$ 6.50	9,295	\$ 60,415			\$ 60,415
Cash Match	\$ 7.14	940		6,713		6,713
<b>C1 Grand Total</b>		<b>67,301</b>	<b>\$ 430,455</b>	<b>\$ 44,018</b>	<b>\$ 107</b>	<b>\$ 474,580</b>
<b>Home Delivered Meals</b>						
Title III Home Delivered Meals						
SGR HDM						
Local Match						
Cash Match						
In-Kind Match						
<b>Subtotal</b>						
Program Income						
<b>Title III C2 Total</b>						
American Rescue Plan						
Cash Match						
<b>HDM Grand Total</b>						
<b>Title III Funds</b>			<b>\$ 518,116</b>			<b>\$ 518,116</b>
<b>American Rescue Plan</b>			<b>\$ 60,415</b>			<b>\$ 60,415</b>
<b>Cash Match</b>				<b>\$ 54,593</b>		<b>\$ 54,593</b>
<b>In-Kind Match</b>				<b>\$ -</b>		<b>\$ -</b>
<b>Program Income</b>					<b>\$ 285</b>	<b>\$ 285</b>
<b>GRAND TOTAL</b>			<b>\$ 578,531</b>	<b>\$ 54,593</b>	<b>\$ 285</b>	<b>\$ 633,409</b>



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**ATTACHMENT "A"**  
**DATA USE AGREEMENT**  
**BETWEEN THE**  
**TEXAS HEALTH AND HUMAN SERVICES ENTERPRISE**  
**AND**  
**HOUSTON-GALVESTON AREA COUNCIL**

This Data Use Agreement ("DUA") entered into by and between the Texas Health and Human Services Enterprise ("HHS") agency, the Department of Aging and Disability Services (DADS) and Houston-Galveston Area Council ("CONTRACTOR") and incorporated into the terms of DADS Contract No.539-11-0024-00001, in Travis County, Texas (the "Base Contract").

**ARTICLE 1. PURPOSE; APPLICABILITY; ORDER OF PRECEDENCE**

**ATTACHMENT 1. THE PURPOSE OF THIS DUA IS TO FACILITATE CREATION, RECEIPT, MAINTENANCE, USE, DISCLOSURE OR ACCESS TO 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. 45 CFR 164.504(E)(1)-(3) 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 BUSINESS ASSOCIATES 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 of the Effective Date of this DUA, if any provision of the Base Contract, including any General Provisions or Standard Contract Terms and Conditions, conflicts with this DUA, this DUA controls.

**ARTICLE 2. DEFINITIONS**

For the purposes of this DUA, **capitalized, underlined terms have the meanings set forth in the following:** Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (42 U.S.C. §1320d, *et seq.*) and regulations there under in 45 CFR Parts 160 and 164, including all amendments, regulations and guidance issued thereafter; The Social Security Act, including Section 1137 (42 U.S.C. §§ 1320b-7), Title XVI of the Act; The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a and regulations and guidance there under; Internal Revenue Code, Title 26 of the United States Code and regulations and publications adopted under that code, including IRS Publication 1075; OMB Memorandum 07-18; Texas Business and Commerce Code Ch. 521; Texas Government Code, Ch. 552, and Texas Government Code §2054.1125. In addition, the following terms in this DUA are defined as follows:

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**“Authorized Purpose”** means the specific purpose or purposes described in the Scope of Work of 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.

**“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) Client Information;
- (2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information;
- (3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;
- (4) Federal Tax Information;
- (5) Personally Identifiable Information;
- (6) Social Security Administration Data, including, without limitation, Medicaid information;
- (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.

**“Legally Authorized Representative”** of the Individual, as defined by Texas law, including as provided in 45 CFR 435.923 (Medicaid); 45 CFR 164.502(g)(1) (HIPAA); Tex. Occ. Code § 151.002(6); Tex. H. & S. Code §166.164; Estates Code Ch. 752 and Texas Prob. Code § 3.



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### **ARTICLE 3. CONTRACTOR'S DUTIES REGARDING CONFIDENTIAL INFORMATION**

#### **Section 3.01 Obligations of CONTRACTOR**

CONTRACTOR agrees that:

(A) CONTRACTOR will 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 any portion of the Confidential Information from being used in a manner that is not expressly an Authorized Purpose under this DUA or as Required by Law. *45 CFR 164.502(b)(1); 45 CFR 164.514(d)*

(B) CONTRACTOR will not, without HHS's prior written consent, disclose or allow access to any portion of the Confidential Information to any Person or other entity, other than Authorized User's Workforce or Subcontractors of CONTRACTOR who have completed training in confidentiality, privacy, security and the importance of promptly reporting any Event or Breach to CONTRACTOR's management, to carry out the Authorized Purpose or as Required by Law.

HHS, at its election, may assist CONTRACTOR in training and education on specific or unique HHS processes, systems and/or requirements. CONTRACTOR will produce evidence of completed training to HHS upon request. *45 C.F.R. 164.308(a)(5)(i); Texas Health & Safety Code §181.101*

(C) CONTRACTOR will 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 will maintain evidence of sanctions and produce it to HHS upon request. *45 C.F.R. 164.308(a)(1)(ii)(C); 164.530(e); 164.410(b); 164.530(b)(1)*

(D) CONTRACTOR will not, without prior written approval of HHS, disclose or provide access to any Confidential Information on the basis that such act is Required by Law without notifying HHS 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 will refrain from disclosing or providing access to the Confidential Information until HHS has exhausted all alternatives for relief. *45 CFR 164.504(e)(2)(ii)(A)*

(E) CONTRACTOR will not attempt to re-identify or further identify Confidential Information or De-identified Information, or attempt to contact any Individuals whose records are contained in the Confidential Information, except for an Authorized Purpose, without express written authorization from HHS or as expressly permitted by the Base Contract. *45 CFR 164.502(d)(2)(i) and (ii)* CONTRACTOR will not engage in prohibited marketing or sale of Confidential Information. *45 CFR 164.501, 164.508(a)(3) and (4); Texas Health & Safety Code Ch. 181.002*

(F) CONTRACTOR will not 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 CONTRACTOR without requiring that Subcontractor first execute the Form Subcontractor Agreement,

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Attachment 1, which ensures that the Subcontractor will comply with the identical terms, conditions, safeguards and restrictions as contained in this DUA for PHI and any other relevant Confidential Information and which permits more strict limitations; and **45 CFR 164.502(e)(1)(i)(ii); 164.504(e)(1)(i) and (2)**

(G) CONTRACTOR is directly responsible for compliance with, and enforcement of, all conditions for creation, maintenance, use, disclosure, transmission and Destruction of Confidential Information and the acts or omissions of Subcontractors as may be reasonably necessary to prevent unauthorized use. **45 CFR 164.504(e)(5); 42 CFR 431.300, et seq.**

(H) If CONTRACTOR maintains PHI in a Designated Record Set, CONTRACTOR will make PHI available to HHS in a Designated Record Set or, as directed by HHS, provide PHI to the Individual, or Legally Authorized Representative of the Individual who is requesting PHI in compliance with the requirements of the HIPAA Privacy Regulations. CONTRACTOR will make other Confidential Information in CONTRACTOR's possession available pursuant to the requirements of HIPAA or other applicable law upon a determination of a Breach of Unsecured PHI as defined in HIPAA. **45 CFR 164.524 and 164.504(e)(2)(ii)(E)**

(I) CONTRACTOR will make PHI as required by HIPAA available to HHS for amendment and incorporate any amendments to this information that HHS directs or agrees to pursuant to the HIPAA. **45 CFR 164.504(e)(2)(ii)(E) and (F)**

(J) CONTRACTOR will document and make available to HHS the PHI required to provide access, an accounting of disclosures or amendment in compliance with the requirements of the HIPAA Privacy Regulations. **45 CFR 164.504(e)(2)(ii)(G) and 164.528**

(K) If CONTRACTOR receives a request for access, amendment or accounting of PHI by any Individual subject to this DUA, it will promptly forward the request to HHS; however, if it would violate HIPAA to forward the request, CONTRACTOR will promptly notify HHS of the request and of CONTRACTOR's response. Unless CONTRACTOR is prohibited by law from forwarding a request, HHS will respond to all such requests, unless HHS has given prior written consent for CONTRACTOR to respond to and account for all such requests. **45 CFR 164.504(e)(2)**

(L) CONTRACTOR will provide, and will cause its Subcontractors and agents to provide, to HHS periodic written certifications of compliance with controls and provisions relating to information privacy, security and breach notification, including without limitation information related to data transfers and the handling and disposal of Confidential Information. **45 CFR 164.308; 164.530(c); 1 TAC 202**

(M) Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may use or disclose PHI for the proper management and administration of CONTRACTOR or to carry out CONTRACTOR's legal responsibilities if: **45 CFR 164.504(e)(ii)(1)(A)**

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(1) Disclosure is Required by Law, provided that CONTRACTOR complies with Section 3.01(D);

(2) CONTRACTOR obtains reasonable assurances from the Person to whom the information is disclosed that the Person will:

(a) Maintain the confidentiality of the Confidential Information in accordance with this DUA;

(b) 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

(c) Notify CONTRACTOR in accordance with Section 4.01 of any Event or Breach of Confidential Information of which the Person discovers or should have discovered with the exercise of reasonable diligence. *45 CFR 164.504(e)(4)(ii)(B)*

(N) Except as otherwise limited by this DUA, CONTRACTOR will, if requested by HHS, use PHI to provide data aggregation services to HHS, as that term is defined in the HIPAA, 45 C.F.R. §164.501 and permitted by HIPAA. *45 CFR 164.504(e)(2)(i)(B)*

(O) CONTRACTOR will, on the termination or expiration of this DUA or the Base Contract, at its expense, return to HHS or Destroy, at HHS's election, and to the extent reasonably feasible and permissible by law, all Confidential Information received from HHS or created or maintained by CONTRACTOR or any of CONTRACTOR's agents or Subcontractors on HHS's behalf if that data contains Confidential Information. CONTRACTOR will certify in writing to HHS that all the Confidential Information that has been created, received, maintained, used by or disclosed to CONTRACTOR, 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 will immediately notify HHS of the reasons such return or Destruction is not feasible, and agree to extend indefinitely the protections of this DUA to the Confidential Information and limit its further uses and disclosures to the purposes that make the return of the Confidential Information not feasible for as long as CONTRACTOR maintains such Confidential Information. *45 CFR 164.504(e)(2)(ii)(J)*

(P) CONTRACTOR will create, maintain, 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. *45 CFR 164.306; 164.530(c)*

(Q) If CONTRACTOR accesses, transmits, stores, and/or maintains Confidential Information, CONTRACTOR will complete and return to HHS at [infosecurity@hhsc.state.tx.us](mailto:infosecurity@hhsc.state.tx.us) the HHS information security and privacy initial inquiry (SPI) at Attachment 2. The SPI identifies basic privacy and security controls with which CONTRACTOR must comply to protect HHS Confidential Information. CONTRACTOR will 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

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CONTRACTOR creates, receives, maintains, uses, discloses or has access to and the Authorized Purpose and level of risk. CONTRACTOR's security controls will be based on the National Institute of Standards and Technology (NIST) Special Publication 800-53. CONTRACTOR will update its security controls assessment

whenever there are significant changes in security controls for HHS Confidential Information and will provide the updated document to HHS. HHS also reserves the right to request updates as needed to satisfy state and federal monitoring requirements. *45 CFR 164.306*

(R) CONTRACTOR will establish, implement and maintain any and all appropriate procedural, administrative, physical and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information, and with respect to PHI, as described in the HIPAA Privacy and Security Regulations, or other 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. *45 CFR 164.308 (administrative safeguards); 164.310 (physical safeguards); 164.312 (technical safeguards); 164.530(c) (privacy safeguards)*

(S) CONTRACTOR will designate and identify, subject to HHS approval, a Person or Persons, as Privacy Official *45 CFR 164.530(a)(1)* 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 will 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. *45 CFR 164.308(a)(2)*

(T) CONTRACTOR represents and warrants 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 pursuant to this DUA and the Base Contract, and further, that each has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information contained in this DUA. *45 CFR 164.502; 164.514(d)*

(U) CONTRACTOR and its Subcontractors will maintain an updated, complete, accurate and numbered list of Authorized Users, their signatures, titles and the date they agreed to be bound by the terms of this DUA, at all times and supply it to HHS, as directed, upon request.

(V) CONTRACTOR will implement, update as necessary, and document reasonable and appropriate policies and procedures for privacy, security and Breach of Confidential Information and an incident response plan for an Event or Breach, to comply with the privacy, security and breach notice requirements of this DUA prior to conducting work under the DUA. *45 CFR 164.308; 164.316; 164.514(d); 164.530(i)(1)*

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(W) CONTRACTOR will produce copies of its information security and privacy policies and procedures and records relating to the use or disclosure of Confidential Information received from, created by, or received, used or disclosed by CONTRACTOR on behalf of HHS for HHS's review and approval within 30 days of execution of this DUA and upon request by HHS the following business day or other agreed upon time frame. *45 CFR 164.308; 164.514(d)*

(X) CONTRACTOR will make available to HHS any information HHS requires to fulfill HHS's obligations to provide access to, or copies of, PHI in accordance with HIPAA and other applicable laws and regulations relating to Confidential Information. CONTRACTOR will provide such information in a time and manner reasonably agreed upon or as designated by the Secretary, or other federal or state law. *45 CFR 164.504(e)(2)(i)(I)*

(Y) CONTRACTOR will 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 or otherwise protected as required by rule, regulation or law. HHS Confidential Information *at rest* requires Encryption unless there is adequate administrative, technical, and physical security, or as otherwise protected as required by rule, regulation or law. All electronic data transfer and communications of Confidential Information will be through secure systems. Proof of system, media or device security and/or Encryption must be produced to HHS no later than 48 hours after HHS's written request in response to a compliance investigation, audit or the Discovery of an Event or Breach. Otherwise, requested production of such proof will be made as agreed upon by the parties. De-identification of HHS Confidential Information is a means of security. With respect to de-identification of PHI, "secure" means de-identified according to HIPAA Privacy standards and regulatory guidance. *45 CFR 164.312; 164.530(d)*

(Z) CONTRACTOR will 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 07-16;

The Federal Information Security Management Act of 2002 (FISMA);

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) as defined in the DUA;

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;

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Attachment 1

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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; and

Any other State or Federal law, regulation, or administrative rule relating to the specific HHS program area that CONTRACTOR supports on behalf of HHS.

#### **ARTICLE 4. BREACH NOTICE, REPORTING AND CORRECTION REQUIREMENTS**

##### **Section 4.01. *Breach or Event Notification to HHS. 45 CFR 164.400-414***

(A) CONTRACTOR will cooperate fully with HHS in investigating, mitigating to the extent practicable and issuing notifications directed by HHS, for any Event or Breach of Confidential Information to the extent and in the manner determined by HHS.

(B) CONTRACTOR'S obligation begins at the Discovery of an Event or Breach and continues as long as related activity continues, until all effects of the Event are mitigated to HHS's satisfaction (the "incident response period"). *45 CFR 164.404*

(C) Breach Notice:

1. Initial Notice.

a. For federal information, including without limitation, Federal Tax Information, Social Security Administration Data, and Medicaid Client Information, within the first, consecutive clock hour

of Discovery, and for all other types of Confidential Information not more than 24 hours after Discovery, *or in a timeframe otherwise approved by HHS in writing*, initially report to HHS's Privacy and Security Officers via email at: [privacy@HHSC.state.tx.us](mailto:privacy@HHSC.state.tx.us) and to the HHS division responsible for this DUA; and *IRS Publication 1075; Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a; OMB Memorandum 07-16 as cited in HHSC-CMS Contracts for information exchange.*

b. Report all information reasonably available to CONTRACTOR about the Event or Breach of the privacy or security of Confidential Information. *45 CFR 164.410*

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c. Name, and 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.

2. 48-Hour Formal Notice. No later than 48 consecutive clock hours after Discovery, or a time within which Discovery reasonably should have been made by CONTRACTOR of an Event or Breach of Confidential Information, provide formal notification to the State, including all reasonably available information about the Event or Breach, and CONTRACTOR's investigation, including without limitation and to the extent available: *For (a) - (m) below: 45 CFR 164.400-414*

a. The date the Event or Breach occurred;

b. The date of CONTRACTOR's and, if applicable, Subcontractor's Discovery;

c. A brief description of the Event or 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, to the extent known or can be reasonably determined by CONTRACTOR at that time;

g. CONTRACTOR's initial risk assessment of the Event or 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 without limitation 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 Event or Breach;

k. Identify, describe or estimate of the Persons, Workforce, Subcontractor, or Individuals and any law enforcement that may be involved in the Event or Breach;

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Attachment 1



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l. A reasonable schedule for CONTRACTOR to provide regular updates to the foregoing in the future for response to the Event or Breach, but no less than every three (3) business days or as

otherwise directed by HHS, 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 an Event or Breach that HHS requests following Discovery.

***Section 4.02 Investigation, Response and Mitigation. For A-F below: 45 CFR 164.308, 310 and 312; 164.530***

(A) CONTRACTOR will immediately conduct a full and complete investigation, respond to the Event or Breach, commit necessary and appropriate staff and resources to expeditiously respond, and report as required to and by HHS for incident response purposes and for purposes of HHS's compliance with report and notification requirements, to the satisfaction of HHS.

(B) CONTRACTOR will complete or participate in a risk assessment as directed by HHS following an Event or Breach, and provide the final assessment, corrective actions and mitigations to HHS for review and approval.

(C) CONTRACTOR will fully cooperate with HHS to respond to inquiries and/or proceedings by state and federal authorities, Persons and/or Individuals about the Event or Breach.

(D) CONTRACTOR will fully cooperate with HHS's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such Event or 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 4.03 Breach Notification to Individuals and Reporting to Authorities. Tex. Bus. & Comm. Code §521.053; 45 CFR 164.404 (Individuals), 164.406 (Media); 164.408 (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 obtain HHS's prior written approval of the time, manner and content of any notification to Individuals, regulators or third-parties, or any notice required by other state or federal authorities. 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

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and title of CONTRACTOR's representative, an email address and a toll-free telephone number, for the Individual to obtain additional information.

(C) CONTRACTOR will provide HHS with copies of distributed and approved communications.

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

(E) If HHS delegates notice requirements to CONTRACTOR, 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 and reports.

## **ARTICLE 5. SCOPE OF WORK**

Scope of Work means the services and deliverables to be performed or provided by CONTRACTOR, or on behalf of CONTRACTOR by its Subcontractors or agents for HHS that are described in detail in the Base Contract. The Scope of Work, including any future amendments thereto, is incorporated by reference in this DUA as if set out word-for-word herein.

## **ARTICLE 6. GENERAL PROVISIONS**

### **Section 6.01 Ownership of Confidential Information**

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

### **Section 6.02 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 6.03 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 or the Office of the Attorney General of Texas, outside consultants or legal counsel or other designee.

### **Section 6.04 Term; Termination of DUA; Survival**

This DUA will be effective on the date on which CONTRACTOR executes the DUA, and will terminate upon termination of the Base Contract and as set forth herein. If the Base Contract is extended or amended, this DUA is updated automatically concurrent with such extension or amendment.

HHS Data Use Agreement V.8.3 HIPAA Omnibus Compliant April 1, 2015

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(A) HHS may immediately terminate this DUA and Base Contract upon a material violation of this DUA.

(B) Termination or Expiration of this DUA will not relieve CONTRACTOR of its obligation to return or Destroy the Confidential Information as set forth in this DUA and to continue to safeguard the Confidential Information until such time as determined by HHS.

(D) 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.

(E) If neither termination nor cure is feasible, HHS shall report the violation to the Secretary.

(F) 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 6.05      *Governing Law, Venue and Litigation***

(A) The validity, construction and performance of this DUA and the legal relations among the Parties to this DUA will be governed by and construed in accordance with the laws of the State of Texas.

(B) The Parties agree that the courts of Travis County, Texas, will be the exclusive venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, or in connection with, or by reason of this DUA.

#### **Section 6.06      *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

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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 6.07**      **Indemnification**

To the extent permitted by law, CONTRACTOR will 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 its 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 its Workforce. The duty to indemnify, defend and hold harmless is independent of the duty to insure and continues to apply even in the event insurance coverage required, if any, in the DUA or Base Contract is denied, or coverage rights are reserved by any insurance carrier. Upon demand, CONTRACTOR will reimburse HHS for any and all losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party to the extent caused by and which results from the CONTRACTOR's failure to meet any of its obligations under this DUA. To the extent permitted by law, CONTRACTOR's obligation to defend, indemnify and hold harmless any Indemnified Party will survive the expiration or termination of this DUA.

#### **Section 6.08**      **Insurance**

(A) CONTRACTOR represents and warrants that it maintains either self-insurance or commercial insurance with policy limits sufficient to cover any liability arising from any acts or omissions by CONTRACTOR or its employees, directors, officers, Subcontractors, or agents or other members of its Workforce under this DUA. CONTRACTOR warrants that HHS will be a loss payee and beneficiary for any such claims.

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

DADS Contract No. 539-11-0024-00001

**Section 6.09 Fees and Costs**

Except as otherwise specified in this DUA or the Base Contract, including but not limited to requirements to insure and/or indemnify HHS, if any legal action or other proceeding is brought for the enforcement of this DUA, or because of an alleged dispute, contract violation, Event, Breach, default, misrepresentation, or injunctive action, in connection with any of the provisions of this DUA, each party will bear their own legal expenses and the other cost incurred in that action or proceeding.

**Section 6.10 Entirety of the Contract**

This Data Use Agreement 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 6.11 Automatic Amendment and Interpretation**

Upon the effective date of any amendment or issuance of additional regulations to HIPAA, or any other 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 HIPAA or any other law applicable to Confidential Information.

**Section 6.12 Effective Date**

The effective date of this Data Use Agreement is as stated in the contract amendment which incorporates the DUA into the Base Contract.

DADS Contract No. 539-11-0024-00001

**ATTACHMENT 1. SUBCONTRACTOR AGREEMENT FORM**  
**DADS CONTRACT NUMBER 539-11-0024-00001**

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

CONTRACTOR has subcontracted with Galveston County (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 identical 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 or Event as defined by the DUA that SUBCONTRACTOR Discovers will 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 will:

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 reasonably 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: Mark Henry

NAME: Chuck Wemple

NAME: Mark Henry

TITLE: Executive Director

TITLE: County Judge

DATE: \_\_\_\_\_, 2023.

DATE: 09/25/2023

## Houston-Galveston Area Agency on Aging FY 2024

### Affirmative Action Plan Attachment B

**Galveston County**

\_\_\_\_\_**HEREBY AGREES THAT IT WILL ENACT**

Name of Applicant

**AFFIRMATIVE ACTION PLAN.** Affirmative action is a management responsibility to take necessary steps to eliminate the effects of past and present job discrimination, intended or unintended, which is evident from an analysis of employment practices and policies. It is the policy of this agency that equal employment opportunity is afforded to all persons regardless of race, color, ethnic origin, religion, sex or age.

This applicant is committed to uphold all laws related to Equal Employment Opportunity including, but not limited to, the following.

Title VI of the Civil Rights Act of 1964 which prohibits discrimination because of race, color, religion, sex or nations origin in all employment practices including hiring, firing, promotions, compensation, and other terms, privileges, and conditions of employment.

The Equal Pay Act of 1963 which covers all employees who are covered by the Fair Labor Standards Act. The act forbids pay differentials on the basis of sex.

The Age Discrimination Act which prohibits discrimination because of age against anyone between the ages of 40 and 70.

Federal Executive Order 11246 which requires every contract with Federal financial assistance to contain a clause against discrimination because of race, color, religion, sex or national origin.

Administration of Aging Program Instruction AoA PI-75-11 which requires all grantees to develop affirmative action plans. Agencies, which are part of an "umbrella agency," shall develop and implement an affirmative action plan for single organizational unit on aging. Preference for hiring shall be given to qualified older persons (subject to requirements of merit employment systems).

Section 504 of the Rehabilitation Act of 1973 which states that employers may not refuse to hire or promote handicapped persons solely because of their disability.

**Galveston County** \_\_\_\_\_ is the designated person with executive authority responsible for the implementation of this affirmative action plan. Policy information on affirmative action and equal employment opportunity shall be disseminated through employee meetings, bulletin boards, and any newsletters prepared by this agency.

#### Work Force Analysis: Paid Staff

Total Staff:	# Full Time	# Part Time
Older Persons (60+)	# <u>3</u> <u>33</u> %	# <u>2</u> <u>100</u> %
Minority	# <u>5</u> <u>56</u> %	# <u>2</u> <u>100</u> %
Women	# <u>8</u> <u>89</u> %	# <u>2</u> <u>100</u> %

9/25/23  
Date

  
Signature and Title of Authorized Official

County Judge



**ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF  
HEALTH AND HUMAN SERVICES REGULATION UNDER  
TITLE VI OF THE CIVIL RIGHTS ACT OF 1964  
Attachment C**

**Galveston County**

(hereinafter called the "Applicant")

Name of Applicant (Type or Print)

HEREBY AGREES THAT it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 880352) and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 80) issued pursuant to that title, to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this Assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal Financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this Assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this Assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is give in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such a date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in the Assurance, and that the United States shall have the right to seek judicial enforcement of this Assurance. This Assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the Applicant.

Date

9/25/2023

**Galveston County**

Applicant (Type or Print Name)

**4102 Main Street**

Applicant's Mailing Address

Signature of Authorized Official

**La Marque, Texas 77568**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
ASSURANCE OF COMPLIANCE WITH SECTION 504 OF THE  
REHABILITATION ACT OF 1973, AS AMENDED  
Attachment D**

The undersigned (hereinafter called the "recipient") HEREBY AGREES THAT it will comply with section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), all requirements imposed by the applicable HHS regulation (45 C.F.R. Part 84), and all guidelines and interpretations issued pursuant thereto.

Pursuant to 84.5(a) of the regulation [45 C.F.R. 84.5(a)], the recipient gives this Assurance in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts (except procurement contracts and contracts of insurance or guaranty), property, discounts, or other federal financial assistance extended by the Department of Health and Human Services after the date of this Assurance, including payments of other assistance made after such date on applications for federal financial assistance that were approved before such a date. The recipient recognizes and agrees that such federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance and that the United States will have the right to enforce this Assurance through lawful means. This Assurance is binding on the recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the recipient.

This Assurance obligates the recipient for the period during which federal financial assistance is extended to it by the Department of Health and Human Services or, where the assistance is in the form of real or personal property, for the period provided for in 84.5(b) of the regulation [45 C.F.R. 84.5(b)].

The recipient: Check A or B

- A. ☐ A73 employs fewer than fifteen persons;
- B. ☒ A74 employs fifteen or more persons and, pursuant to 84.7(a) of the regulation [45C.F.R. 84.7(a)], has designated the following person(s) to coordinate its efforts to comply with the HHS regulation:

Mark Henry, County Judge

Name of Designee(s) – Type or Print  
C12

C42

Galveston County

4102 Main Street

Name of Recipient – Type or Print

Street Address or P.O. Box

A12

A42

A71

74-6000908

La Marque

(IRS) Employer Identification Number

City

A1

A11

B12

B41

B1

B11

Texas

77568

C1

C11

State

Zip

B42

B71

I certify that the above information is complete and correct to the best of my knowledge.

Date

B72

B77

Signature and Title of Authorized Official

B78

If there has been a change in name or ownership within the last year, please PRINT the former name below:

NOTE: The 'A,' 'B,' and 'C' followed by numbers are for computer use. Please disregard.

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

Federal Executive Order 12549 requires the Texas Department on Aging and Disability Services (DADS) to screen each covered potential contractor/grantee to determine whether each has a right to obtain a contract/grant in accordance with federal regulations on debarment, suspension, ineligibility, and voluntary exclusion. Each covered contractor/grantee must also screen each of its covered subcontractors/providers.

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, or the Texas Department on Aging and Disability Services 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 as 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 States Department of Agriculture or other federal department or agency, and/or the Texas Department on Aging and Disability Services, 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 all 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.

**Certification Regarding Debarment, Suspension  
Page 2**

8. Except for contracts/grants authorized under paragraph 4 of these terms, 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 State Department of Agriculture, or other federal department or agency, as applicable, and/or the Texas Department on Aging and Disability Services may pursue available remedies, including suspension and/or debarment.

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

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.

NAME OF POTENTIAL CONTRACTOR/GRANTEE Galveston County

CONTRACTOR ID NO./FEDERAL EMPLOYER'S ID NO. 74-6000908

  
Signature of Authorized Representative

Mark Henry  
Printed/Typed Name of Authorized Representative

9/25/23  
Date

County Judge  
Title of Authorized Representative

THIS CERTIFICATION IS FOR FY 2024, PERIOD BEGINNING October 1, 2023 and ENDING September 30, 2024.

### Reporting Abuse of Older Individuals Attachment F

The Houston-Galveston Area Agency on Aging, Older Americans Act program, was established to improve the quality of life of older individuals, particularly those with greatest economic need and those with greatest social need. Unfortunately, thousands of older individuals suffer abuse, neglect, or exploitation. Being aware, recognizing the problem and reporting the abuse, neglect, or exploitation is the only way to protect our older population.

*As stated in the Older Americans Act of 1965, the term “elder abuse, neglect, and exploitation” means abuse, neglect, and exploitation, of an older individual.*

The term “*older individual*” means an individual who is 60 years of age or older.

The term “*abuse*” means the willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

The term “*exploitation*” means the illegal or improper act or process of an individual, including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain.

The term “*neglect*” means the failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

Houston-Galveston Area Agency on Aging (AAA), in coordination with Texas Department of Protective and Regulatory Services, is working to educate all individuals to identify and prevent abuse of older individuals.

If any Contractor or employee of any Contractor sees any Older Americans Act client being abused, they need to report this abuse to Texas Department of Protective and Regulatory Services at 1-800-252-5400.

If any Contractor or employee of any Contractor sees any Older Americans Act client individual being physically or sexually abused or you feel that the situation is urgent – call the police, then report the incident to Texas Department of Protective and Regulatory Services at 1-800-252-5400.

If any Contractor or employee of any Contractor sees any Older Americans Act being abused, they need to contact the Grievance Officer, Houston-Galveston AAA at 1-800-437-7396. If the abuse has not been reported to Texas Department of Protective and Regulatory Services when it is reported to the Grievance Officer, they has the right to release the information to a law enforcement or public protective service agency.

## Reporting Abuse of Older Individuals

## Page 2

If a Contractor has an employee that is accused of abusing an Older Americans Act client, the following steps must be taken:

- 1) The Contractor must remove that employee from the client's home and prohibit the employee from making any contact with the client.
- 2) The Contractor must place a different employee in the client's home and maintain service only if the client is willing to accept service.
- 3) The Contractor must not allow the accused employee to provide any service to any H-GAC client until the Houston-Galveston AAA has reviewed the report.
- 4) The Contractor must investigate the alleged abuse.
- 5) The Contractor must report and record any alleged abuse.
- 6) The Contractor must report the alleged abuse to Houston-Galveston AAA Grievance Officer, at 1-800-437-7396.
- 7) Houston-Galveston AAA will review the report and has the right to report the alleged abuse to Texas Department of Protective and Regulatory Services. If it is found that the employee did abuse an older individual, the Contractor must take actions against the employee.

If a Contractor observes an abusive incident, the Contractor must report the incident to the Texas Department of Protective and Regulatory Services at 1-800-252-5400 and to Houston-Galveston AAA Grievance Officer, at 1-800-437-7396. The Contractor must also record all observations. Completely document who committed the abusive act, the nature of the abuse, and where and when it occurred.

Every individual young or older has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, involuntary seclusion, and exploitation. The intent of this policy is to assure that the Contractor has in place an effective system, that regardless of source prevents mistreatment, neglect, and abuse of Older Americans Act clients or any older individual. The Contractor's system should include a policy to prevent employment of individuals who have been convicted of abusing, neglecting, or exploiting individuals. However, such a policy cannot guarantee that a client will not be abused; it can only assure that the Contractor does whatever is within its control to prevent "elder abuse, neglect, and exploitation", of an older individual.

9/25/23  
Date

  
Signature and Title of Authorized Official

County Judge



**Houston-Galveston Area Agency on Aging**  
**CONFIDENTIALITY CERTIFICATION**  
**Older Americans Act Programs**  
**Attachment G**

**Galveston County**

Contractor Name

shall have procedures to ensure that no information or records about a

client, or obtained from a client, is disclosed in a form that identifies the person without the informed consent of the person or of his or her legal representative unless information is requested by H-GAC or is required to link participant with other service agencies. (See TAC 270.1)

The organization \ I will:

- a. Provide each participant with a free and voluntary opportunity to contribute to the cost of the services;
- b. Protect the privacy of each senior citizen with respect to any contribution;
- c. Establish written procedures to safeguard and account for all contributions; and
- d. Use all contributions to expand and/or maintain the service for which it was received.

The organization \ I will develop a written suggested contribution schedule. The schedule will consider the income ranges of older persons in the community and the Contractor's other sources of income.

The organization \ I will not deny any senior citizen a service because the senior citizen will not or cannot contribute to the cost of the service.

9/25/2023  
Date

Signature and Title of Authorized Official

County Judge



**CERTIFICATION OF COMPLIANCE WITH  
CHILD SUPPORT AND MEDICAL SUPPORT ENFORCEMENT  
Attachment H**

The undersigned (hereinafter called the "Applicant") HEREBY AGREES THAT it will comply with the Texas Family Code, Subtitle D (Administrative Services), Chapter 231, Section 231.006, Ineligibility to Receive State Grants or Loans or Receive Payment on State Contracts, which requires the following certification:

Under Section 231.006, Family Code, the Contractor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

As required by Section 231.006, Family Code, please list the names and social security numbers of individuals or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting this application.

Name: _____	SSN: _____
Name: _____	SSN: _____
Name: _____	SSN: _____
Name: _____	SSN: _____

A child support obligor who is more than 30 days delinquent in payment child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under a contract to provide property, materials, or services; or receive a state-funded grant or loan until such time that the obligor or business entity remedies the non-compliance as described in the Texas Family Code, Chapter 231, Section 231.006(b)(1) and (2).

This CERTIFICATION is given in consideration of and for the purpose of obtaining any and all state grants, loans, contracts, property, discounts or other financial assistance extended after the date hereof to the Applicant. The Applicant recognizes and agrees that such state assistance will be extended in reliance on the representations and agreements made herein. The Applicant further understands that if it is found to be ineligible to receive payment under the Texas Family Code, Chapter 231, Section 231.006(a), any Agreement or Contract may be terminated. If this certification is shown to be false, the Contractor/contractor is liable to the state for attorney's fees, the costs necessary to complete the contract, including the cost of advertising and awarding a second contract, and any other damages provided by law or contract.

**Galveston County**

Applicant (Type or Print)

**Mark Henry**

Authorized Official (Type or Print)

  
Signature of Authorized Official

**County Judge**

Title of Authorized Official

**722 Moody Ave.**

Street Address

**4102 Main Street (FM 519)**

Mailing Address if different from Street Address

**La Marque, Texas 77568**

City, State and Zip

**09/25/23**  
Date

**Houston-Galveston Area Council**
**Attachment I AUTHORIZATION  
AGREEMENT FOR DIRECT DEPOSIT**
**Section 1 – Vendor Information****Galveston County****74-6000908**

Individual/Company Name

Tax ID Number (SSN or Fed ID)

The Houston-Galveston Area Council is hereby authorized to credit the following account in lieu of any other payment method for amounts owed to us for goods delivered or services rendered. Furthermore, the Houston-Galveston Area Council is also authorized to debit the same account in an amount not to exceed the original credit for any erroneous deposits. The vendor agrees to notify the Houston-Galveston Area Council of any changes which may affect this agreement within 24 hours.

Check One ☒ Checking ☐ Savings

This authorization will remain in effect until written notification has been provided to the Houston-Galveston Area Council with different instructions.

Authorized Signature:

Date: 9/21/23

Name:

Crystal Cooper

Title:

Assistant County Treasurer

Telephone Number:

409-770-5395

Mailing Address:

722 Moody Ave. 4th Floor, Galveston, TX 77550

Accounts Receivable Contact:

E-Mail Address for Remittance Advice:

**Section 2 – Banking Information****Prosperity Bank****113122655**

Depository Name (Financial Institution)

Transit/ABA Number

**1301 North Mechanic****El Campo, TX 77437**

Depository Address

**7431431**

Account Number

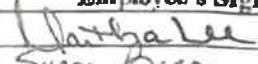
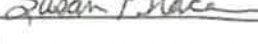


## EMAIL INVOICE AUTHORIZATION AGREEMENT

### Attachment J

Please Type or Print

<b>CONTRACTOR NAME:</b>	Galveston County
<b>ADDRESS:</b>	722 Moody, Galveston, TX 77550 Mailing Address: 4102 Main street, La Marque, TX 77598
<b>TELEPHONE:</b>	409-934-8126

Name of Employees Certifying Documents	Employee's Email Address	Employee's Signature
1. Martha Lee	martha.lee@co.galveston.tx.us	
2. Susan Brace	susan.brace@co.galveston.tx.us	
3.		
4.		
5.		

### Certification

*As a representative of the organization identified above, I confirm that the person(s) named are employees of our organization and are approved to sign and submit monthly invoice(s) and supporting documentation to the Houston-Galveston Area Council. I understand that this authorization will remain in effect until written notification has been provided to the Houston-Galveston Area Council within 24 hours with different instructions.*

**Mark Henry**

Print or Type Representative Name



Signature



Date

Please submit this original form, faxed or a copy of this form will not be accepted. Please make a copy for your records.

## CONFLICT OF INTEREST QUESTIONNAIRE

### Attachment K

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b> <b>For vendor doing business with local governmental entity</b>		<b>FORM CIQ</b>
<p><small>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</small></p> <p><small>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</small></p> <p><small>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</small></p> <p><small>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</small></p>	<div style="border: 1px solid black; padding: 2px; text-align: center; font-weight: bold;">OFFICE USE ONLY</div> <div style="border: 1px solid black; padding: 2px;">Date Received:</div>	
<p><b>1</b> <input type="checkbox"/> <b>Name of vendor who has a business relationship with local governmental entity.</b></p>		
<p><b>2</b> <input type="checkbox"/> <b>Check this box if you are filing an update to a previously filed questionnaire.</b></p> <p style="font-size: small;">(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p><b>3</b> <b>Name of local government officer about whom the information in this section is being disclosed.</b></p> <div style="text-align: center; margin-top: 10px;"> <hr style="width: 50%; margin: 0 auto;"/> <p style="margin: 0;">Name of Officer</p> </div> <p style="font-size: small; margin-top: 10px;">This section (Item 3 including subparts A, B, C, &amp; D) must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.</p> <p><b>A.</b> Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input type="checkbox"/> Yes             <input type="checkbox"/> No         </div> <p><b>B.</b> Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?</p> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input type="checkbox"/> Yes             <input type="checkbox"/> No         </div> <p><b>C.</b> Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more?</p> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input type="checkbox"/> Yes             <input type="checkbox"/> No         </div> <p><b>D.</b> Describe each employment or business and family relationship with the local government officer named in this section.</p>		
<p><b>4</b></p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> <hr style="width: 80%; margin: 0;"/> <p style="font-size: small; margin: 0;">Signature of vendor doing business with the governmental entity</p> </div> <div style="width: 45%;"> <hr style="width: 80%; margin: 0;"/> <p style="font-size: small; margin: 0;">Date</p> </div> </div>		

Adopted 8/7/2015

**Certificate Of Completion**

Envelope Id: FDE42A24DD4D4C73A8A9CF67A7978AA2  
 Subject: Subrecipient Agreement - Renewal - Galveston County - Human Services - ID: 11347  
 Source Envelope:  
 Document Pages: 73  
 Certificate Pages: 1  
 AutoNav: Enabled  
 EnvelopeId Stamping: Enabled  
 Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:  
 Houston-Galveston Area Council  
 3555 Timmons Lane, Suite 120  
 Houston, TX 77027  
 contracts@h-gac.com  
 IP Address: 12.11.127.21

**Record Tracking**

Status: Original  
 3/12/2024 8:09:52 AM

Holder: Houston-Galveston Area Council  
 contracts@h-gac.com

Location: DocuSign

**Signer Events**

Mark Henry  
 mark.henry@co.galveston.tx.us  
 County Judge  
 Galveston County  
 Security Level: Email, Account Authentication  
 (None)

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Charles Wemple  
 charles.wemple@h-gac.com  
 Security Level: Email, Account Authentication  
 (None)

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

**Signature****Timestamp**

Sent: 3/12/2024 8:11:04 AM  
 Resent: 3/20/2024 2:33:09 PM  
 Viewed: 4/8/2024 1:51:26 PM

**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****Witness Events****Signature****Timestamp****Notary Events****Signature****Timestamp****Envelope Summary Events****Status****Timestamps**

Envelope Sent

Hashed/Encrypted

3/12/2024 8:11:04 AM

**Payment Events****Status****Timestamps**