

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
FY2020 COMMUNITY DEVELOPMENT BLOCK GRANT
Coronavirus Aid, Relief, and Economic Security Act (“CDBG CARES” or “CDBG-CV”)
Texas Emergency Rental Assistance Program (“TERAP”) and
Texas Eviction Diversion Program (“TEDP”)**

CONTRACT NO. 721000XXXX

CFDA: 14.228 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
Awarding Federal Agency: U.S. Department of Housing and Urban Development
Federal Award Number(s): B-20-DW-48-0001
Federal Award Year: 2020
Pass Through Entity: Texas Department of Housing and Community Affairs
HUD Entity Type: Subrecipient
Unique Entity Identifier Number: [ORG_DUNS]

SECTION 1. PARTIES TO THE CONTRACT

This 2020 CDBG-CV Contract Number **721000XXXX** (“Contract”) is made and entered into by and between the Texas Department of Housing and Community Affairs, a public and official of the State of Texas, (“Department” or “TDHCA”) and **[SUBRECIPIENT’S NAME]**, a political subdivision of the State of Texas (“Subrecipient”) hereinafter, collectively, the “Parties”.

SECTION 2. CONTRACT TERM

This Contract shall commence on **[January 15, 2021 or insert date]**, and shall terminate on **[January 14, 2022 or insert date]**, unless extended by written agreement or terminated earlier (“Contract Term”).

SECTION 3. SUBRECIPIENT PERFORMANCE, SCHEDULE, AND SERVICE AREA

- A. **Purpose.** Subrecipient shall utilize federal CDBG-CV funds to implement a Texas Emergency Rental Assistance Program (“TERAP”) and carry out the Texas Eviction Diversion Program (“TEDP”) as further permitted herein and as administered by the Department.
- B. **Program Design.** Generally, Subrecipient shall utilize CDBG-CV funds to provide rental assistance to income-eligible Households economically impacted by the Coronavirus Disease 2019 (“COVID-19”) to help them stay housed during the pandemic by paying for up to six months of rent, including rental arrears, with at least one of those months covering a current or future month of rent. Current and future months of rent must be consecutive.
- C. **TEDP**
 - 1. **TEDP Activity.**
 - i. Subrecipient must participate in TEDP. TEDP allows Texans who have fallen behind on their rent because of the impact of COVID-19 and whose landlords have initiated eviction proceedings, to stay in their homes. TEDP operates in partnership with the Supreme Court of Texas, the Office of Court Administration (“OCA”), and local courts and provides referred income-eligible Households economically impacted by COVID-19 with up to six months of rental assistance and an alternative to eviction.

- ii. Subrecipient is required to administer the eviction diversion emergency rental assistance activity in conjunction with one or more designated Justices of the Peace as specified by TDHCA and the OCA and listed on their websites.

2. Confidential Information. In this partnership with OCA, the Department, and the Supreme Court of Texas, Subrecipient will make all court records, files, and information, relating to the eviction confidential to mitigate the secondary effects on the Household's ability to rent housing in the future. Visit the Court's website at <http://www.txcourts.gov/programs-services/eviction-diversion-program/>.
3. Allocation. Ten percent (10%) of the contract amount is allocated for the TEDP activity. If this ten percent (10%) is spent, Subrecipient may spend other funds under this Contract on TEDP without prior Department approval, but will need to accurately report these funds for this activity utilized in the monthly reporting to the Department.
4. Deobligation. If there are limited referrals from the local courts or referrals are primarily ineligible, the Department may in its sole but reasonable written authority deobligate all or a portion of these funds, or may allow the funds to be used for emergency rental assistance payments by the Subrecipient, on or after the six-month expenditure benchmark.
5. Security and Utility Deposits. If the landlord refuses to participate in TEDP, Subrecipient may transfer the Household to the TERAP. If Subrecipient transfers the Household to the TERAP, TERAP funds may also be used for one month's security and utility deposit(s). Subrecipient may not pay a utility deposit to a public utility company that it or an affiliate owns or controls, or that another unit of government or affiliate of local government owns or controls without prior written permission from the Department. If these deposits are refundable, the Subrecipient must require the landlord or the utility company to return the funds to the Subrecipient upon the Household's departure from the Unit.
6. [Not applicable.][Referrals. Until September 30, 2021 (or other date provided to Subrecipient in writing by the Department in its sole discretion), Subrecipient will refer Households and landlords in XXX County to XXX entity for eviction diversion activities. Subrecipient will also agree to receive referrals from XXX entity for Households determined by XXX to be over income for that program or when a landlord refuses to participate in that program.]

D. **Program Requirements.** Subrecipient must comply with the all applicable statutes, regulations, and U.S. Department of Housing and Urban Development ("HUD") guidance, including, but not limited to the following: the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136) ("CARES Act"); Chapter 2105 of the Texas Government Code; Administration of Block Grants, Housing and Community Development Act of 1974, as amended and codified at 42 U.S.C. § 5301; the Federal CDBG Regulations, found at Title 24 Code of Federal Regulations (CFR) Subpart I; and the CDBG-CV notice found at FR-6218-N-01 ("Notice") and FAQs: Program Rules, Waivers, and Alternative Requirements Under the CARES Act for CDBG-CV Grants, FY 2019 and 2020 CDBG Grants, and for Other Formula Programs"); 24 CFR Parts 58, and 75; 2 CFR Part 200, Uniform Grant Management Standards (UGMS), Texas Department of Housing and Community Affairs 2019 Annual Action Plan, as amended, the Department's CDBG-CV TERAP Program Guidelines ("Program Guidelines") and Chapters 1 and 2 of Title 10, Part 1 of the Texas Administrative Code. Subrecipient further agrees to comply with the Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements attached hereto as Addendum A, Certification Regarding Drug-Free Workplace Requirements attached hereto as Addendum B, Certification Regarding Debarment, Suspension and Other Responsibility Matter attached hereto as Addendum C, the Contract Benchmarks attached hereto as Exhibit A; the Performance Statement and Benchmarks attached hereto as Exhibit B; the Budget attached hereto as

Exhibit C; all such addendums and exhibits incorporated herein for all relevant purposes; the assurances, certifications, and all other statements made by Subrecipient in its application for CDBG-CV, as defined in Section 4, funding under this Contract; and with all other terms, provisions, and requirements herein set forth. All such addendums and exhibits are incorporated herein for all relevant purposes.

- E. **Service Area.** Subrecipient’s service area consists of [the City of XXX], [the County of XXX,] [the County of XXX, except for residents of the City of XXX, the City of XXX etc.].
- F. **Performance.** The Subrecipient shall perform all activities in accordance with the Federal Act and Program Requirements, “Contract Benchmarks” attached hereto as Exhibit A and incorporated herein for all relevant purposes; the “Performance Statement and Benchmarks” attached hereto as Exhibit B and incorporated herein for all relevant purposes; the “Budget” attached hereto as Exhibit C and incorporated herein for all relevant purposes; the “Certification Regarding Lobbying for Contracts, Grants, Loans and Cooperative Agreements” attached hereto as Addendum A and incorporated herein for all relevant purposes; Certification Regarding Drug-Free Workplace Requirements attached hereto as Addendum B, the Certification Regarding Debarment, Suspension and Other Responsibility Matter attached hereto as Addendum C, the assurances, certifications, and all other statements made by the Subrecipient in its application for the activity funded under this Contract; and with all other terms, provisions, and requirements set forth in this Contract. The Subrecipient shall ensure that the persons to benefit from the activities described in the “Performance Statement and Benchmarks” attached as Exhibit B to this Contract are receiving the service or a benefit and activities for the Contract obligations to be fulfilled and before submitting the “Project Completion Report” to TDHCA.
- G. **Implementation Schedule.** All funds must be fully expended within the Contract Term and must be expended at a reasonable rate acceptable to the Department and as indicated in the “Contract Benchmarks” and “Budget” attached hereto as Exhibits A and C. As further detailed in Exhibits A and C, once General Administration expenditures reach 40% of the budgeted amount, the Department will only reimburse Subrecipient for additional General Administration costs at a rate such that the percentage of budgeted General Administration funds reimbursed is no more than 20 percentage points higher than the percentage of budgeted Emergency Payments expended.
- H. **Income and Household Qualification.**
1. **Definitions.** For purposes of this Contract, the following definitions apply:
 - iii. “Household” or “Households” is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. Live-in aides are not part of the Household.
 - iv. “Gross Annual Income” is defined as annual income before any deductions have been taken.
 2. **Tenant Certification.** The Household must complete a tenant certification form.
 3. **Statements of Economic Impact.** Subrecipient must collect statements from Households attesting to having been economically impacted by COVID-19 such as disaster related unemployment, lost wages, or increased Household costs.
 4. **Household Income Certification.** Unless otherwise noted, Subrecipient must complete a household income certification form (“HIC”) or a similar tool.

5. Household income. Household income is based on Part 5 of HUD’s Handbook 4350.3, as modified for TERAP and TEDP and defined in the Department’s CDBG-CV TERAP Program Guidelines found here: <https://www.tdhca.state.tx.us/pdf/covid19/cdbg/TERAP-Program-Guidelines.pdf>
6. Household Qualifications. Households can qualify as follows:
 - i. Subrecipient is not required to further determine Household income if the Household consists of 6 or fewer individuals and signs a self-certification that its income does not currently exceed 80% of HUD’s Area Median Income (“AMI”), and the Household provides documentation that it is currently receiving benefits from Supplemental Security Income (“SSI”) for the Head or Co-Head of household,, Low-Income Energy Assistance Program (“LIHEAP”), or the Supplemental Nutrition Program (“SNAP”).
 - ii. If the Household resides in development that is a property whose rent limit is capped by HUD, the Department of Agriculture or the Department, the landlord may provide documentation that an income certification was done pursuant to 24 CFR Part 5 on or after April 1, 2020, but must be within twelve months of the CDBG-CV application for assistance, and the residing Household’s income does not exceed 80% of HUD’s AMI. In this circumstance, after reviewing the landlord’s documentation and receiving a certification from the Household that its income is still under HUD’s 80% AMI, Subrecipient is not required to further determine Household income.
 - iii. If income is from 0% to 60% AMI, a Household self-certification of income is required.
 - iv. For Household income 60% to 80% of AMI, see page 11 of the Program Guidelines. For TERAP, Subrecipient must qualify all Households using the 4350.5 modified income qualification process explained on the Program Guidelines.
7. Duplication of Benefits. Under no circumstances shall a Household or landlord receive a duplication of benefits (“DOB”). A DOB occurs when a beneficiary receives assistance from multiple sources for the same purpose, and the total assistance received for that purpose is more than the total need for assistance. Any excess from a DOB must be returned to the Department within 10 (ten) days.
8. Subaward Agreements. This subsection H of Section 3 of the Contract must be incorporated into any and all subaward agreements.

SECTION 4. DEPARTMENT FINANCIAL OBLIGATIONS

- A. **Financial Obligations.** In consideration of Subrecipient's satisfactory performance of this Contract, Department shall reimburse the actual allowable costs incurred by Subrecipient in an amount up to \$ _____ and in accordance with the terms of this Contract.
- B. **Availability of Funds.** Department’s obligations under this Contract are contingent upon the actual receipt and availability by the Department of adequate CDBG-CV funds from the U.S. Department of Housing and Urban Development (“HUD”). If sufficient funds are not available to make payments under this Contract, Department shall notify Subrecipient in writing within a reasonable time after such fact is determined. Department shall then terminate this Contract, and will not be liable for the failure to make any payment to Subrecipient under this Contract. Department acknowledges that it has received obligations from those sources which, if paid, will be sufficient to pay the allowable costs incurred by Subrecipient under this Contract.

- C. **Ineligible Costs.** Department shall not be liable to Subrecipient for certain costs, including but not limited to costs which:
1. have been reimbursed to Subrecipient or are subject to reimbursement to Subrecipient by any source other than Department;
 2. are not allowable costs, as set forth in the CDBG-CV Notice and the CARES Act and in Section 8 of this Contract;
 3. are not strictly in accordance with the terms of this Contract, including the addendums and exhibits attached hereto;
 4. have not been reported to Department within forty-five (45) calendar days following termination of this Contract;
 5. are not used to prevent, prepare for, or respond to the Coronavirus Disease 2019 pandemic "COVID-19"); or
 6. are not incurred during the Contract Term, except for rental arrears payments between April 1, 2020, and [January 14, 2021 or insert date that is the day before start date of the Contract Term], and eligible pre-award administrative costs incurred after April 1, 2020, as further detailed in Section 5 C of this Contract.
- D. **Deobligation of Funds.** Failure to meet an expenditure benchmark as reported in the Monthly Expenditure and Performance Report as identified in Exhibit A, Contract Benchmarks, may result in the Department (in its sole discretion) deobligating the unreported amount of expended funds for the benchmark and deobligating an equivalent proportion of administrative funds.

SECTION 5. PAYMENT / CASH BALANCES

- A. **One-Time Request for Advance of Funds.**
1. Per 2 CFR 200.305, the Subrecipient may request a one-time advance of funds (no more than 30 days cash need) by submitting to TDHCA a properly completed planned expenditure report that includes a request for advance funds, in a format specified by TDHCA. TDHCA shall determine the reasonableness of each amount requested and shall not make disbursement of any such payment until TDHCA has reviewed and approved such request. TDHCA may request Subrecipient to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein as may be necessary or advisable for compliance with the Federal Act and Program Requirements.
 2. Subrecipient's requests for the advance of funds shall be limited to the minimum amounts needed for effective operation of programs, and shall be timed as closely as possible to be in accord with actual cash requirements. Subrecipient shall establish procedures to minimize the time elapsing between the transfer of funds from TDHCA to the Subrecipient and the spending of such funds and shall ensure that such funds are disbursed as soon as administratively possible. If Subrecipient subcontracts or subawardees any part of its award, it must have financial management systems in place to pay the subcontractor or subawardee for expenses under the agreement, generally within thirty (30) days.
- B. **Disbursement Procedures.** Subrecipient shall establish procedures to minimize the time between the disbursement of CDBG-CVD funds from Department to Subrecipient and the expenditure of such funds by Subrecipient.
- C. **Allowable Expenses.** All funds paid to Subrecipient pursuant to this Contract are for the payment of allowable expenditures to be used for the exclusive benefit of low-to moderate- income Households with Gross Annual Income at or below 80 percent of HUD's AMI, applicable per each Household's size

and zip code and county of residence. Subrecipient may incur administrative costs to deliver emergency assistance: salaries and related costs; supplies and equipment (with Department approval and as limited by 10 TAC §1.10), overhead (utilities, maintenance, etc.), transportation, and mileage. Preparation of the CDBG-CV application and staff time to attend or participate in pre-contract training are eligible pre-award administrative costs. Subrecipient may incur costs for activities associated with the closeout of the Contract for a period not to exceed forty-five (45) calendar days from the end of the Contract Term.

- D. **Refund.** Subrecipient shall refund to Department any sum of money which has been paid to Subrecipient by Department, which Department determines has resulted in an overpayment. Subrecipient shall make such refund within ten (10) calendar days after the Department's request.
- E. **Repayment.** Subrecipient shall repay funds that the Department determines has not been spent strictly in accordance with the terms of this Contract and by which the period of obligation has expired. Subrecipient shall make such repayment within ten (10) calendar days after the Department's request.

SECTION 6. ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES AND AUDIT REQUIREMENTS

- A. **Administrative Requirements and Cost Principles.** Except as expressly modified by law or the terms of this Contract, Subrecipient shall comply with the cost principles and uniform administrative requirements set forth in the state Uniform Grant Management Standards, 34 TAC §20.421 in effect on the effective date of this Contract ("UGMS").
- B. **Indirect Cost Rate.** Subrecipient has an approved indirect cost rate of XXX. Indirect costs are only allowable if Subrecipient has an approved federal indirect cost rate or is using the de minimis rate on all its federal contracts per 2 CFR §200.414(f).
- C. **Financial Management and Audit Requirements.** Subrecipient must demonstrate to the satisfaction of the Department that they are in compliance with the financial management requirements at 2 CFR Part 200, including the single audit requirements of 2 CFR §200.501. Audit requirements are set forth in the Texas Single Audit Act and 2 CFR Part 200, Subpart F. The expenditure threshold requiring an audit is \$750,000 of Federal and/or state funds. If an audit is required under the Texas State Single Audit Act, this audit must be submitted to the Department pursuant to 10 TAC §1.403, but CDBG-CV funds may not be used to pay for the audit. Subawardees of the Subrecipient must comply with financial management systems in accordance with 10 TAC §1.402. Subrecipient shall ensure compliance by subawardee, if applicable.
- D. **Audit Review.** Department reserves the right to conduct additional audits of funds received and performances rendered under this Contract. Subrecipient agrees to permit Department, or its authorized representative, to audit Subrecipient's records and to obtain any documents, materials, or information necessary to facilitate such audit.
- E. **Subcontracts and Subawards.** The Subrecipient shall include language in any subcontract or subaward that provides the Department the ability to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this Contract.
- F. **Certification Form.** For any fiscal year ending within or one year after the Contract Term, Subrecipient must submit an "Audit Certification Form" (available from the Department) within sixty (60) days after the Subrecipient's fiscal year end. If the Subrecipient's Single Audit is required by 2 CFR Part 200, Subpart F, the report must be submitted to the Federal Audit Clearinghouse ("FAC") the earlier of thirty (30) calendar days after receipt of the auditor's report or nine (9) months after the end

of its respective fiscal year. As noted in 10 TAC §1.403(f), Subrecipient is required to submit a notification to Department within five (5) business days of submission to the FAC. Along with the notice, indicate if the auditor issued a management letter. If there is a management letter, a copy of the letter must be sent to the Department. Both the notice and the copy of the management letter, if applicable, must be submitted by electronic mail to: SAandACF@tdhca.state.tx.us

SECTION 7. TERMINATION AND SUSPENSION

- A. **Termination.** Upon adequate notice, and as per 10 TAC §2.202, Department may terminate this Contract, in whole or in part, at any time Department determines that there is cause for termination. Cause for termination includes, but is not limited to, Subrecipient's failure to comply with any term of this Contract or reasonable belief that Subrecipient cannot or will not comply with the requirements of this Contract. If the Department determines that a Subrecipient has failed to comply with the terms of the Contract, or to provide services that meet appropriate standards, goals, or other requirements established by the Department, the Department will notify Subrecipient of the deficiencies to be corrected and may require the deficiencies be corrected. Repeated instances of not meeting the Contract Benchmarks as reflected in Exhibit A will be good cause to terminate the Contract, in the Department's sole discretion.
- B. **Suspension.** As per 10 TAC §2.202, Department may suspend this Contract, in whole or in part, at any time Department determines that there is cause for suspension. Nothing in this Section 7 shall be construed to limit Department's authority to withhold payment and immediately suspend this Contract if Department identifies possible instances of fraud, abuse, waste, fiscal mismanagement, or other deficiencies in Subrecipient's performance.
- C. **Liability.** Department shall not be liable for any costs incurred by Subrecipient after termination or during suspension of this Contract.
- D. **Withholding of Payment.** Notwithstanding any exercise by Department of its right of termination or suspension, Subrecipient shall not be relieved of any liability to Department for damages by virtue of any breach of this Contract by Subrecipient. Department may withhold any payment due to Subrecipient until such time as the exact amount of damages due to Department or other liability is agreed upon or is otherwise determined in writing between the Parties.

SECTION 8. PROHIBITED USE OF FUNDS

- A. **Budget.** Subrecipient may not use funds under this Contract for any activity or in any manner not reflected in Exhibit C, Budget.
- B. **Rental Payment Restrictions.** Subrecipient may not use funds under this Contract to assist a Household whose contract rent in its dwelling unit exceeds 150% of the Small Area Fair Market Rent ("SAFMR"), or where no SAFMR exists, the Fair Market Rent ("FMR"), and may not make a payment for a dwelling unit in an amount greater than 120% of the SAFMR or FMR. A Subrecipient may assist a Household with nonfederal funds for the rental arrears for the monthly amount between 120% and 150% of Small Area Fair Market Rent or Fair Market Rent (if Small Area Fair Market Rent is not published in the jurisdiction).
- C. **Project-Based and Tenant-Based Rental Assistance.** Subrecipient may not use funds under this Contract to assist a Household whose dwelling unit also has project-based rental assistance, whose Development uses project-based operating assistance, or where the tenant has a tenant-based voucher.

- D. **Public Housing Unit.** Subrecipient may not use funds under this Contract to assist a Household whose dwelling unit is a public housing unit.
- E. **Assistance Period.** Subrecipient may not assist a Household with funds under this Contract, for more than a total of six (6) months (rental arrears payment + current or future monthly rental payment).
- F. **Local Government Owned Property.** Subrecipient may not use funds under this Contract to assist a Household whose dwelling unit is owned by a Unit of Local Government (as that term is defined in UGMS), unless it has prior written permission from the Department (to be reviewed on a case by case basis).

SECTION 9. RECORDKEEPING REQUIREMENTS

- A. **General.** For purposes of compliance, all associated documentation must be readily available, whether stored electronically or hard copy to justify compliance with program rules and regulations. Subrecipient shall maintain fiscal and programmatic records and supporting documentation for all expenditures made under this Contract in accordance with the UGMS.
- B. **Open Records.** Subrecipient acknowledges that all information collected, assembled, or maintained by Subrecipient pertaining to this Contract, except records made confidential by law, is subject to the Texas Public Information Act (Chapter 552 of Texas Government Code) and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Contract subject to and in accordance with the Texas Public Information Act.
- C. **Access to Records.** Subrecipient shall give HUD, the U.S. General Accounting Office, the Texas Comptroller, the State Auditor's Office, and Department, or any of their duly authorized representatives, access to and the right to examine and copy, on or off the premises of Subrecipient, all records pertaining to this Contract. Such right to access shall continue as long as the records are retained by Subrecipient. Subrecipient agrees to cooperate with any examination conducted pursuant to this Subsection C.
- D. **Record Retention.** Subrecipient agrees to maintain such records in an accessible location for the greater of: (i) the time period described in the state Uniform Grant Management Standards, Chapter III, "State Uniform Administrative Requirements for Grants and Cooperative Agreements", Subpart C – Post Award Requirements, §_.42; (ii) if notified by the Department in writing, the date that the final audit is accepted with all audit issues resolved to the Department's satisfaction; (iii) if any litigation claim, negotiation, inspection, or other action has started before the expiration of the required retention period records must be retained until completion of the action and resolution of all issues which arise under it; (iv) a date consistent with any other period required by the performed activity reflected in federal or state law or regulation. Upon termination of this Contract, all records are property of the Department.
- E. **CARES Act Funds.** Subrecipient shall track, account for, and report on this CDBG-CV Act funding separate from other funds. Upon request, Subrecipient shall report to the Department to extent these funds were used as match for other programs.

SECTION 10. REPORTING REQUIREMENTS

- A. **General.** Subrecipient shall submit to Department such reports on the performance of this Contract as may be required by Department including, but not limited to, the reports specified in this Section.
- B. **Expenditure and Performance Reports.** By the fifteenth (15th) day of each month, Subrecipient shall electronically submit an Expenditure and Performance Report to the Department of all expenditures of funds and clients served under this Contract during the previous month (including a partial month), regardless of whether Subrecipient makes a fund request. Subrecipient must file a monthly Expenditure and Performance Report in a timely manner, prior to accessing funds. The failure of Subrecipient to provide a full accounting of all funds expended under this Contract shall result in the automatic suspension of the ability of Subrecipient to request reimbursements and shall be identified as a finding in any monitoring review.
- C. **Final Reports.** Subrecipient shall submit a final Expenditure and Performance Report to the Department after the end of the Contract Term. Subrecipient must file a final Expenditure and Performance Report within forty-five (45) calendar days after the end of the Contract.
- D. **Inventory.** Subrecipient shall submit to Department no later than forty five (45) calendar days after the end of the Contract Term an inventory of all vehicles, and equipment (as defined federally and by UGMS) with a unit acquisition cost of \$5,000.00 or more and/or a useful life of more than one year, if purchased in whole or in part with funds received under this Contract. The inventory shall reflect the equipment on hand as of the last day of the Contract Term Upon the termination of this Contract, Department may transfer title to any equipment to the Department or to any other entity receiving federal funds from the Department.
- E. **Default.** If Subrecipient fails to submit within forty-five (45) calendar days of its due date, any report or response required by this Contract, including responses to monitoring reports, Department may, in its sole discretion, suspend payments, place Subrecipient on cost reimbursement method of payment, and initiate proceedings to terminate the Contract.
- F. **Entity Identifier Number.** Subrecipient shall provide the Department with a Data Universal Numbering System ("DUNS") number to be used as the Unique Entity Identifier Number on all contracts and agreements. The DUNS number must be provided in a document from Dun and Bradstreet must be submitted from a document retrieved from the <https://www.sam.gov> website. These documents must be provided to the Department prior to the processing first payment to Subrecipient. Subrecipient shall maintain a current DUNS number for the entire Contract Term.
- G. **Rental Assistance.** During the Contract Term, reimbursements from rental arrears or rental assistance payments must be reported to the Department in the next monthly Expenditure and Performance Report and spent on qualifying rental arrears or rental assistance payments.

SECTION 11. CHANGES AND AMENDMENTS

- A. **Amendments and Required Changes by law.** Any change, addition, or deletion to the terms of this Contract required by a change in state or federal law or regulation is automatically incorporated herein and is effective on the date designated by such law or regulations without the requirement of a written amendment hereto. Said changes, additions, or deletions referenced under this Section 11 of this Contract may be further evidenced in a written amendment.
- B. **General.** Except as specifically provided otherwise in this Contract, any changes, additions, or deletions to the terms of this Contract not required by a change in state or federal law or regulation shall be amended in writing and executed by both Parties to this Contract.

- C. **Electronic Signatures.** If any Party returns an executed copy by electronic transmission, the signing party intends the copy of its authorized signature, to be its original signature.
- D. **Amendment Requests.** The Department must receive any Contract amendment requests in writing.

SECTION 12. PROGRAM INCOME

- A. **General.** Subrecipient shall account for and expend program income derived from activities financed in whole or in part with funds provided under this Contract in accordance with the state Uniform Grant Management Standards, more specifically Chapter III, "State Uniform Administrative Requirements For Grants and Cooperative Agreements", Subpart C — Post-Award Requirements-- Financial Administration, §_.25, Program Income, 2 CFR §200.80, and 10 TAC §6.205(c).
- B. **Reimbursement.** During and after the Contract Term, Subrecipient will return refunds or reimbursements from rental arrears, rental assistance payments, rental deposits, or utility deposits, or any other program income to the Department within ten (10) days of receipt. Program income any subcontractor, or subawardee receives, must also be returned to the Department within ten (10) calendar days. This requirement must be listed in the Subrecipient's agreement with subcontractor or subawardee.

SECTION 13. TECHNICAL ASSISTANCE AND MONITORING

Department may issue technical guidance to explain the rules and provide directions on terms of this Contract. Department or its designee may conduct periodic on-site monitoring and evaluation of the efficiency, economy, and efficacy of Subrecipient's performance of this Contract. Department will advise Subrecipient in writing of any deficiencies noted during such monitoring. Department will provide technical assistance to Subrecipient and will require or suggest changes in Subrecipient's program implementation or in Subrecipient's accounting, personnel, procurement, and management procedures in order to correct any deficiencies noted. Department may conduct follow-up visits to review and assess the efforts Subrecipient has made to correct previously noted deficiencies. Department may place Subrecipient on a cost reimbursement method of payment, suspend or terminate this Contract, or invoke other remedies in the event monitoring or other reliable sources reveal material deficiencies in Subrecipient's performance or if Subrecipient fails to correct any deficiency within the time allowed by federal or state law or regulation or by the terms of this Contract.

SECTION 14. INDEPENDENT SUBRECIPIENT

Subrecipient is an independent contractor. Subrecipient agrees to hold Department harmless and, to the extent allowed by law, indemnify it against any disallowed costs or other claims which may be asserted by any third party in connection with Subrecipient's performance of this Contract.

SECTION 15. PROCUREMENT STANDARDS

- A. Subrecipient shall comply with UGMS and 10 TAC §1.404, this Contract, and all applicable federal, state, and local laws, regulations, and ordinances for making procurement transactions and purchases under this Contract.
- B. Subrecipient may not use funds provided under this Contract to purchase equipment (as defined federally or by UGMS) with a unit acquisition cost (the net invoice unit price of an item of equipment)

of more than \$5,000.00, or on any vehicle purchase unless Subrecipient has received the prior written approval from the Department for such purchase.

SECTION 16. SUBCONTRACTS

- A. Subrecipient, in subcontracting for any performances described in this Contract, expressly understands that in entering into such subcontracts, TDHCA is in no way liable to the Subrecipient's subcontractor(s). All subcontracts must be for goods or services and paid out of administrative funds. Subcontractors must be procured in accordance with 2 CFR Part 200, UGMS, and 10 TAC §1.404.
- B. Subrecipient has the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all Contract terms and as if such performances rendered were rendered by Subrecipient. Department maintains the right to monitor and require Subrecipient's full compliance with the terms of this Contract.

SECTION 17. SUBAWARDS

- C. Subrecipient may request to the Department to enter into a subaward to a unit of local government, council of government, public housing authority, or private nonprofit organization for some or all of its program and administrative funds through a direct (non-competitive) award. The Subrecipient must fulfil all of the requirement of a pass-through entity listed in 24 CFR §200.332, and must monitor its subawardee at least once during the Contract Term.
- D. Any subaward must contain all the applicable terms and conditions required by federal and state requirements and as further reflected this Contract including but not limited to items specifically identified in this Contract, 2 CFR §200.332, and 2 CFR Part 200 Appendix II (as applicable) .
- E. Subrecipient must provide the Department with the applicable contact information for all subawards to ensure that accurate contact information is available relating to both rental assistance and eviction diversion activities to include in a list of resources for landlords/tenants. Subawardees may not further subaward funds.
- F. Before entering into a contract or other agreement with a subawardee, Subrecipient must: 1) check the Federal and State debarment and suspended lists of both the Department (all subawardees) and Texas Department of Agriculture (only if the subawardee is a non-entitlement city or county) for the entity and for governing board members of subawardees; 2) ensure that the entity (if applicable) is current on its Single Audit submission to the Federal Audit Clearinghouse; 3) request a disclosure for matters under 2 CFR §200.113, 2 CFR Part 200 Appendix XII, 24 CFR Part 9, or the Fair Housing Act; and 4) provide the Department this information on the Department's form by February 15, 2021.
- G. The Subrecipient, in subawarding for any performances described in this Contract, expressly understands that in entering into such subawards, the Department is in no way liable to the Subrecipient's subawardee(s). Department's approval under this Section 17 does not constitute adoption, ratification, or acceptance of Subrecipient's or subawardee's performance hereunder. Department maintains the right to monitor and require Subrecipient's full compliance with the terms of this Contract. Department's approval under this Section 17 does not waive any right of action which may exist or which may subsequently accrue to Department under this Contract.

SECTION 18. TRAVEL

Subrecipient shall adhere to 2 CFR Part 200 and either its board-approved travel policy (not to exceed the amounts established in subchapter I of Chapter 57 of Title 5, United States Code "Travel and Subsistence

Expenses; Mileage Allowances), or the State of Texas travel policies. Subrecipient's written travel policy shall delineate the rates which Subrecipient shall use in computing the travel and per diem expenses of its board members and employees.

SECTION 19. LITIGATION AND CLAIMS

Subrecipient shall immediately provide Department with written notice of any claim or action filed with a court or administrative agency against Subrecipient arising out of the performance of this Contract or any subcontract hereunder. Subrecipient shall provide Department with copies of any and all relevant papers Subrecipient receives with respect to such action or claim.

SECTION 20. LEGAL AUTHORITY

- A. **Legal Authority.** Subrecipient assures and guarantees that it possesses the legal authority to enter into this Contract, to receive and manage the funds authorized by this Contract, and to perform the services Subrecipient has obligated itself to perform hereunder. The execution, delivery, and performance of this Contract will not violate Subrecipient's constitutive documents or any requirement to which Subrecipient is subject and represents the legal, valid, and binding agreement of Subrecipient, enforceable in accordance with its terms.
- B. **Signature Authority.** The person signing this Contract on behalf of Subrecipient hereby warrants that he/she has been duly authorized by Subrecipient's governing board to execute this Contract on behalf of Subrecipient and to validly and legally bind Subrecipient to the terms, provisions and performances herein.
- C. **Termination; Liability.** Department shall have the right to terminate this Contract if there is a dispute as to the legal authority of either Subrecipient or the person signing this Contract on behalf of Subrecipient to enter into this Contract or to render performances hereunder. Subrecipient is liable to Department for any money it has received from Department for performance of the provisions of this Contract, if the Department has terminated this Contract for reasons enumerated in this Section 20.
- D. **Merger; Default.** Subrecipient understands that it is an event of default under this Contract if the Subrecipient liquidates, terminates, dissolves, merges, consolidates or fails to maintain good standing in the State of Texas, and such is not cured prior to causing material harm to Subrecipient's ability to perform under the terms of this Contract.

SECTION 21. COMPLIANCE WITH LAWS

- A. **Federal, State and Local law.** Subrecipient shall comply with the CARES Act, the Housing and Community Development Act of 1974, the CDBG and CDBG-CV federal rules and regulations the certifications attached hereto, and all federal, state, and local laws and regulations applicable to the performance of this Contract. Subrecipient shall not violate any federal, state, or local laws, stated herein or otherwise, nor commit any illegal activity in the performance of or associated with the performance of this Contract. No funds under this Contract shall be used for any illegal activity or activity that violates any federal, state, or local laws.
- B. **Drug-Free Workplace Act of 1988.** The Subrecipient affirms by signing this Contract and Addendum B that it is implementing the Drug-Free Workplace Act of 1988 (41 USC §701, *et seq*).
- C. **Limited English Proficiency (LEP).** Subrecipient must ensure equal access to services by non-English speaking residents. Subrecipient must provide program applications, forms, and educational materials in English, Spanish, and any appropriate language, based on the needs of the service area and in

compliance with the requirements in Executive Order 13166 of August 11, 2000 reprinted at 65 F.R. 50121, August 16, 2000 Improving Access to Services with LEP at 67 F.R. 41455. To ensure compliance, the Subrecipient must take reasonable steps to insure that persons with LEP have meaningful access to the program. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.

D. **Information Security and Privacy Requirements.**

1. **General.** Subrecipient shall comply with the information security and privacy requirements under 10 TAC §1.24 to ensure the security and privacy of Protected Information (as said term is defined under 10 TAC §1.24).
2. **Information Security and Privacy Agreement (“ISPA”).** Prior to beginning any work under this Contract, Subrecipient shall either (i) have an effective, fully executed ISPA, as required by 10 TAC §1.24, on file with the Department, or (ii) will execute and submit to the Department an ISPA in accordance with instructions found on the Department’s website at the “Information Security and Privacy Agreement” link. The requirements of the ISPA must be incorporated into an agreement with any subcontractor or subawardee, as applicable.

F. **Prevention of Trafficking.** Subrecipient and its contractors must comply with Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. §7104 *et seq.*). If Subrecipient or its contractor or subcontractor engages in, or uses labor recruiters, brokers or other agents who engage in any of the prohibited activities under Section 106(g) of the Trafficking Victims Protection Act of 2000, Department may terminate this Contract and Subrecipient hereby agrees and acknowledges that upon termination, Subrecipient 's rights to any funds shall be terminated.

G. **Section 3.** If Subrecipient’s project contains covered activities not paid for CDBG-CV funds, Subrecipient agrees to comply with HUD’s regulations in 24 CFR Part 75, which implement Section 3 of the Housing and Urban Development Act of 1968, as amended. As evidenced by their execution of this Contract, the parties certify that they are under no contractual or other impediment that would prevent them from complying with 24 CFR Part 75.

H. **Lead-based Paint.** Emergency Rental Assistance under TERAP or TEDP for current rental payments covering an excess of 100 days, is subject to the Lead Safe Housing Rule (“LSHR”) requirements and Subrecipient must follow the requirements of 24 CFR Part 35 Subpart K, whether occupied by a child less than six years or not. Subpart K requires that almost all dwelling units built prior to January 1, 1978 that receive Federal assistance undergo a visual assessment for deteriorated paint (inside, outside and all common areas) by a trained grantee or subrecipient. The results of the visual assessment must be documented. Should deteriorated paint be identified, Subrecipient must follow the compliance steps to properly address the deteriorated painted surfaces, detailed in Subpart K. A list of exemptions to the LSHR, steps to comply with Subpart K, and associated resources can be reviewed here: <https://portalapps.hud.gov/CORVID/HUDBPAdvisor/welcome.html>.

SECTION 22. ENVIRONMENTAL CLEARANCE REQUIREMENTS

The Department has performed a state-wide environmental review under 24 CFR §58.35(b)(2) for this emergency rental assistance activity. Subrecipient will not have to perform individual environmental reviews.

SECTION 23. CITIZEN PARTICIPATION REQUIREMENTS and COMPLAINTS

A. **Citizen Participation.** In accordance with Section 2105.058 of the Texas Government Code, Subrecipient must conduct a public meeting at least annually to seek public comment on the needs or uses of CDBG-CV funds.

- B. Complaints. Subrecipient must provide residents the address, phone number, email (if applicable) and times for submitting complaints and grievances, and provide timely written answers to complaints and grievances, within fifteen (15) working days where practicable.
- C. Subaward Agreements. Subrecipient must incorporate the provisions of this Section 23 into its agreement with any subawardee that receives more than \$5,000 in CDBG-CV funding and of this Section 23B with any subawardee.

SECTION 24. PREVENTION OF WASTE, FRAUD, ABUSE, and DUPLICATION OF BENEFITS

- A. Subrecipient shall establish, maintain, and utilize systems and procedures to prevent, detect, and correct waste, fraud, and abuse in activities funded under this Contract. The systems and procedures shall address possible waste, fraud, and abuse by Subrecipient, its employees, clients, vendors, subcontractors and administering agencies. Subrecipient's internal controls systems and all transactions and other significant events are to be clearly documented, and the documentation is to be readily available for monitoring by Department.
- B. Subrecipient shall establish and maintain adequate procedures to prevent any duplication of benefits as required by section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155), as amended by section 1210 of the Disaster Recovery Reform Act of 2013 (division D of Public Law 115—254; 132 Stat. 3442).
- C. Subrecipient shall give Department complete access to all of its records, employees, and agents for the purpose of monitoring or investigating the CDBG-CV program. Subrecipient shall immediately notify Department of any discovery of waste, fraud, or abuse. Subrecipient shall fully cooperate with Department's efforts to detect, investigate, and prevent waste, fraud, and abuse.
- D. Subrecipient shall not discriminate against any employee or other person who reports a violation of the terms of this Contract, or of any law or regulation, to Department or to any appropriate law enforcement authority, if the report is made in good faith.
- E. Subrecipient is prohibited from selling, trading, or otherwise transferring all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, and must use such funds only for eligible activities, in this case, emergency rental assistance.
- F. Subaward. Subrecipient must incorporate the provisions of this Section 24 into its agreement with any subawardee.

SECTION 25. CERTIFICATION REGARDING UNDOCUMENTED WORKERS

Pursuant to Chapter 2264 of the Texas Government Code, by execution of this Contract, Subrecipient hereby certifies that Subrecipient, or a branch, division, or department of Subrecipient does not and will not knowingly employ an undocumented worker, where "undocumented worker" means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States. If, after receiving a public subsidy, Subrecipient or a branch, division, or department of Subrecipient is convicted of a violation under 8 U.S.C. §1324a(f), Subrecipient shall repay the public subsidy with interest, at the rate of five percent (5%) per annum, not later than the 120th day after the date the Department notifies Subrecipient of the violation.

SECTION 26. CONFLICT OF INTEREST/NEPOTISM

- A. Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. Failure to maintain written standards of conduct and to follow and enforce the written standards is a condition of default under this Contract. In addition, the written standards must meet the requirements in 2 CFR §200.318.
- B. No employee, officer, or agent of Subrecipient shall participate in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the Parties indicated herein, has a financial or other interest in the firm selected for an award. This also applies to the procurement of goods and services under 24 CFR §§200.317 and 200.3186.
- C. The officers, employees, and agents of the Subrecipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub-agreements. Subrecipient may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Subrecipient
- D. Failure to maintain written standards of conduct and to follow and enforce the written standards is a condition of default under this Contract and may result in termination of the Contract or deobligation of funds.
- E. Subrecipient must incorporate the provisions of this Section 26 with any subcontractor or subawardee.

SECTION 27. POLITICAL ACTIVITY AND LEGISLATIVE INFLUENCE PROHIBITED

- A. None of the funds provided under this Contract shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any state official or employee from furnishing to any member of its governing body upon request, or to any other local or state official or employee or to any citizen, information in the hands of the employee or official not considered under law to be confidential information.
- B. No funds provided under this Contract may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government, the State of Texas, or the government of the United States.
- C. None of the funds provided under this Contract shall be used to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award governed by the Byrd Anti-Lobbying Amendment (31 U.S.C. §1352) as the Subrecipient and each of its tiers have certified by their execution of the "Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements" attached hereto as Addendum A and incorporated herein for all relevant purposes.

SECTION 28. NON-DISCRIMINATION, EQUAL ACCESS AND EQUAL OPPORTUNITY

- A. Non-Discrimination. A person shall not be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Contract, on the grounds of race, color, religion, sex, national origin, age, familial status, disability, or political affiliation or belief.

- B. Equal Opportunity. Subrecipient agrees to carry out an Equal Employment Opportunity Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965, as amended, and its implementing regulations at 41 CFR Part 60 .
- C. Affirmatively Further Fair Housing. Subrecipient must affirmatively further fair housing to include but is not limited to marketing the program to those least likely to apply.
- D. Accessibility. Subrecipient must meet the standards under (i) Section 504 of the Rehabilitation Act of 1973 (5 U.S.C. §794) Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§12131-12189; 47 U.S.C. §§155, 201, 218 and 255) as implemented by U. S. Department of Justice at 28 CFR Parts 35 and 36. Subrecipient shall follow the Department's accessibility rules in 10 TAC Chapter 1, Subchapter B. Subrecipient shall operate each program or activity receiving financial assistance so that the program or activity, when viewed in its entirety, is readily accessible and usable by individuals with disabilities. Subrecipient is also required to provide reasonable accommodations for persons with disabilities.

SECTION 29. MAINTENANCE OF EFFORT

Funds provided to Subrecipient under this Contract may not be substituted for funds or resources from any other source or in any way serve to reduce the funds or resources which would have been available to or provided through Subrecipient had this Contract never been executed.

SECTION 30. PREVIOUS PARTICIPATION REVIEW DEBARRED AND SUSPENDED PARTIES

- A. All entities will be subject to a Previous Participation Review by the Department, as outlined in 10 TAC §1.302. Pursuant to 24 CFR Part 5, all CDBG-CV applicants are required to verify that they and their principals, or any/all persons, contractors, consultants, businesses, subawardees, etc., that will be conducting business with the applicant as part of the rental assistance activity are not presently debarred, proposed for debarment, suspended, declared ineligible, or voluntarily excluded from participation in the covered transaction or in any proposal submitted in connection with the covered transaction.
- B. The Department will not award any CDBG-CV funds to organizations that are debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation from federal or state assisted programs, or that are proposing to partner, contract, or otherwise fund rental assistance activities through an organization that is debarred, suspended, proposed for debarment, or otherwise ineligible from participation in federally assisted programs. If an organization has a member of its governing body that has this status, the Department will allow the member to resign so that the organization can enter into a Contract with the Department.
- C. By signing this Contract, Subrecipient certifies that its principal employees, board members, agents, or contractors are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency as provided in the Certification Regarding Debarment, Suspension and Other Responsibility Matters attached hereto as Addendum C and incorporated herein for all relevant purposes. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in the certification attached as Addendum C, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
- D. Subrecipient also certifies that it will not knowingly award any funds provided by this Contract to any person who is proposed for debarment under 48 CFR Part 9, Subpart 9.4 or that is debarred,

suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549. Subrecipient agrees that prior to entering into any agreement with a potential subcontractor that the verification process to comply with this requirement will be accomplished by checking the System for Award Management (“SAM”) at www.sam.gov and including a copy of the results in its project files. After said verification, Subrecipient may decide the frequency by which it determines the eligibility of its subcontractors during the term of subcontractor’s agreement. Subrecipient may subsequently rely upon a certification of a prospective subcontractor that is not proposed for debarment under 48 CFR Part 9, Subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless Subrecipient knows that the certification is erroneous.

- E. Failure of Subrecipient to furnish the certification attached hereto as Addendum C or an explanation of why it cannot provide said certification shall disqualify Subrecipient from participation under this Contract. The certification or explanation will be considered in connection with the Department’s determination whether to continue with this Contract. Subrecipient shall provide immediate written notice to Department if at any time Subrecipeint learns that the certification was erroneous when submitted or has become erroneous by reason of changed circumstances. Subrecipient further agrees by executing this Contract that it will include the certification provision titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusive-Subcontracts,” as set out in Addendum C, without modification, and this language under this Section 30, in all its subcontracts.

SECTION 31. FAITH BASED AND SECTARIAN ACTIVITY

Funds provided under this Contract may not be used for explicitly religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance from the Department. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from the Department, and participation must be voluntary for beneficiaries of the programs or services funded with such assistance. Subrecipient shall comply with the regulations in 24 CFR §5.109 .

SECTION 32. COPYRIGHT

Subrecipient may copyright materials developed in the performance of this Contract or with funds expended under this Contract. If copyrighted materials are developed in the under this Contract, the Department and HUD shall each have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the copyrighted work for government purposes.

SECTION 33. NO WAIVER

Any right or remedy given to Department by this Contract shall not preclude the existence of any other right or remedy, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other right or remedy. The failure of Department to exercise any right or remedy on any occasion shall not constitute a waiver of Department’s right to exercise that or any other right or remedy at a later time.

SECTION 34. SEVERABILITY

If any section or provision of this Contract is held to be invalid or unenforceable by a court or an administrative tribunal of competent jurisdiction, the remainder shall remain valid and binding.

SECTION 35. ORAL AND WRITTEN AGREEMENTS

- A. All oral and written agreements between the parties to this Contract relating to the subject matter of this Contract have been reduced to writing and are contained in this Contract.

- B. The attachments enumerated and denominated below are a part of this Contract and constitute promised performances under this Contract:
1. Addendum A - Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements
 2. Addendum B - Certification Regarding Drug-Free Workplace Requirements
 3. Addendum C - Certification Regarding Debarment, Suspension and Other Responsibility Matters
 4. Exhibit A - Contract Benchmarks
 5. Exhibit B – Performance Statement and Benchmarks
 6. Exhibit C --Budget

SECTION 36. USE OF ALCOHOLIC BEVERAGES

Funds provided under this Contract may not be used for the payment of salaries to any Subrecipient's employees who use alcoholic beverages while on active duty, for travel expenses expended for alcoholic beverages, or for the purchase of alcoholic beverages.

SECTION 37. FORCE MAJURE

If the obligations are delayed by the following, an equitable adjustment will be made for delay or failure to perform hereunder:

- A. Any of the following events: (i) catastrophic weather conditions or other extraordinary elements of nature or acts of God; (ii) acts of war (declared or undeclared), (iii) acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; and (iv) quarantines, disease pandemics, embargoes and other similar unusual actions of federal, provincial, local or foreign Governmental Authorities; and
- B. The non-performing party is without fault in causing or failing to prevent the occurrence of such event, and such occurrence could not have been circumvented by reasonable precautions and could not have been prevented or circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.

SECTION 38. ALTERNATIVE DISPUTE RESOLUTION

In accordance with Section 2306.082 of the Texas Government Code, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act and the Negotiated Rulemaking Act (Chapters 2009 and 2006 respectively, Texas Government Code), to assist in the fair and expeditious resolution of internal and external disputes involving the Department and the use of negotiated rulemaking procedures for the adoption of Department rules. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by Department's ex parte communications policy, Department encourages informal communications between Department staff and the Subrecipient, to exchange information and informally resolve disputes. Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at any time the Subrecipient would like to engage Department in an ADR procedure, the Subrecipient may send a proposal to Department's Dispute Resolution Coordinator. For additional information on Department's ADR policy, see Department's Alternative Dispute Resolution and Negotiated Rulemaking at 10 TAC §1.17.

SECTION 39. TIME IS OF THE ESSENCE

Time is of the essence with respect to Subrecipient's compliance with all covenants, agreements, terms and conditions of this Contract.

SECTION 40. COUNTERPARTS AND FACSIMILE SIGNATURES

This Contract may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signed signature pages may be transmitted by facsimile or other electronic transmission, and any such signature shall have the same legal effect as an original.

SECTION 41. NUMBER, GENDER

Unless the context requires otherwise, the words of the masculine gender shall include the feminine, and singular words shall include the plural.

SECTION 42. NOTICE

- A. If a notice is provided concerning this Contract, notice may be given at the following ("Notice Address"):

As to Department:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
P. O. Box 13941
Austin, Texas 78711-3941
Attention: Mariana Salazar, Director of CDBG CARES
Telephone: (512) 655-9616
mariana.salazar@tdhca.state.tx.us

As to Subrecipient:

«ORGANIZATION»
«ADDRESS»
«CITY», «STATE» «ZIP»
Attention: «CONTACT», «TITLE»
Telephone: «PHONE» Fax: «FAX» «EMAIL»

- B. All notices or other communications hereunder shall be deemed given when delivered, mailed by overnight service, or five (5) days after mailing by certified or registered mail, postage prepaid, return receipt requested, addressed to the appropriate Notice Address as defined in the above Subsection A of this Section 42.
- C. Subrecipient shall provide contact information to the Department in accordance with 10 TAC §6.6.

SECTION 43. VENUE AND JURISDICTION

This Contract is delivered and intended to be performed in the State of Texas. For purposes of litigation pursuant to this Contract, venue shall lie in Travis County, Texas.

SECTION 44. DENIAL OF SERVICE APPEALS PROCESS FOR HOUSEHOLDS

- A. Subrecipient must establish a written denial of service complaint procedure to address written complaints (or an oral complaint if a person with a disability requests a reasonable accommodation

based on their disability) from a Household or landlord. This appeal procedure is not applicable to a Household if the landlord declines to participate in the program.

- B. If a Household's denial is solely based on income eligibility, this complaint procedure would not apply, but the Household may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and must be performed by an individual other than the person who performed the initial determination. If the recertification upholds the Household's income as ineligible, the Household must be notified in writing.
- C. If the Household is not satisfied with the Subrecipient's decision under the service complaint procedure, the Household may appeal the decision in writing (or telephonically if a person with a disability requests a reasonable accommodation based on their disability) to the Department within ten (10) calendar days of notification of an adverse decision.
- D. Households who allege that the Subrecipient has denied all or part of a service or benefit in a manner that is unjust, violates discrimination laws, or without reasonable basis in law or fact, may request a contested hearing under Tex. Gov't Code, Chapter 2001. The hearing shall be conducted by the State Office of Administrative Hearings on behalf of the Department in the locality served by the Subrecipient, for which the procedures are further described in 10 TAC §1.13 (relating to Contested Case Hearing Procedures). If the Household appeals to the Department, Subrecipient's CDBG-CV funds that could be pledged to that Household should remain unencumbered until the Department completes the appeal process.

SECTION 45. ASSIGNMENT

This Contract is made by Department to Subrecipient only. Accordingly, it is not assignable without the written consent and agreement of Department, which consent may be withheld in Department's sole discretion.

SECTION 46. LIMITATION ON ABORTION FUNDING

- E. Pursuant to Chapter 2272 of the Texas Government Code, to the extent allowed by federal and state law, the Department may not enter into this Contract with an "abortion provider" or an "affiliate" of an abortion provider, as said terms are defined thereunder, if funds under this Contract are appropriated from state or local tax revenue.
- F. By execution of this Contract, the Subrecipient hereby certifies that, as a condition of receipt of any funds under this Contract from state or local tax revenue, it is eligible to receive said funds, and that it will not utilize said funds in any way contrary to this Section 46 during the Contract Term.

EXECUTED to be effective on January 15, 2021.

SUBRECIPIENT:

**[SUBRECIPIENT NAME],
a political subdivision of the State of Texas**

By: _____
Name: «Sig_Auth__First_Name» «Sig_Auth_Last_name»
Title: «Sig_Auth_title»

Date: _____

DEPARTMENT:

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
a public and official agency of the State of Texas**

By: _____
Name: _____
Title: Its duly authorized officer or representative

Date: _____

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
FY2020 COMMUNITY DEVELOPMENT BLOCK GRANT
Coronavirus Aid, Relief, and Economic Security Act (“CDBG CARES” or “CDBG-CV”)
Texas Emergency Rental Assistance Program (“TERAP”) and
Texas Eviction Diversion Program (“TEDP”)**

ADDENDUM A

**CERTIFICATION REGARDING LOBBYING FOR
CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is material representation of fact on which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

STATEMENT FOR LOAN GUARANTEES AND LOAN INSURANCE

The undersigned states, to the best of its knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SUBRECIPIENT:

**[SUBRECIPIENT NAME],
a political subdivision of the State of Texas**

By: _____
Name: «Sig_Auth__First_Name» «Sig_Auth_Last_name»
Title: «Sig_Auth_title»

Date: _____

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
FY2020 COMMUNITY DEVELOPMENT BLOCK GRANT
Coronavirus Aid, Relief, and Economic Security Act (“CDBG CARES” or “CDBG-CV”)
Texas Emergency Rental Assistance Program (“TERAP”) and
Texas Eviction Diversion Program (“TEDP”)**

ADDENDUM B

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645 (a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW Washington, DC 20201.

The undersigned certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee’s workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about-
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee’s policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- (e) Notifying the agency in writing, within ten (10) calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted-
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended;
 - or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

Place(s) of Performance [site(s) for the performance of work done in connection with the specific grant]
(include street address, city, county, state, zip code):

1. _____
2. _____
3. _____
4. _____

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios). If Subrecipient does not identify the workplaces at the time of application, or upon award, if there is no application, the Subrecipient must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the Subrecipient's drug-free workplace requirements.

This certification is a material representation of fact upon which reliance is placed when the Department awards the grant. If it is later determined that Subrecipient knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, Department, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

SUBRECIPIENT:

,
[SUBRECIPIENT NAME],
a political subdivision of the State of Texas

By: _____
Name: «Sig_Auth__First_Name» «Sig_Auth_Last_name»
Title: «Sig_Auth_title»

Date: _____

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
FY2020 COMMUNITY DEVELOPMENT BLOCK GRANT
Coronavirus Aid, Relief, and Economic Security Act (“CDBG CARES” or “CDBG-CV”)
Texas Emergency Rental Assistance Program (“TERAP”) and
Texas Eviction Diversion Program (“TEDP”)**

CONTRACT NO. 7210000XXXX

ADDENDUM C

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS**

The undersigned certifies, to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in section (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (e) Will submit to the Department information about each proceeding that occurs during this Contract Term or during the recordkeeping period that:
 - (1) Is in connection with this award;
 - (2) Reached its final disposition during the most recent five year period; and
 - (3) Is one of the following:
 - i. A criminal proceeding that resulted in a conviction, as defined below;
 - ii. A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - iii. An administrative proceeding, as defined below, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damage in excess of \$100,000; or
 - iv. Any other criminal, civil, or administrative proceeding if:
 - 1. It could have led to an outcome described in this section (e) paragraph (3) items (i) – (iii) of this award term and condition;
 - 2. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

3. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

(4) For purposes of section (e) of this certification the following definitions apply:

- i. An "administrative proceeding" means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- ii. A "conviction", for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

Where the undersigned Subrecipient is unable to certify to any of the statements in this certification, such Subrecipient shall attach an explanation of why it cannot provide said certification to this Contract.

The undersigned Subrecipient further agrees and certifies that it will include the below clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Subcontracts/Lower Tier Covered Transaction," without modification, in all subcontracts and in all solicitations for subcontracts:

"CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – SUBCONTRACTS/ LOWER TIER COVERED TRANSACTIONS

(1) The prospective lower tier participant/subcontractor certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant/subcontractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

LOWER TIER PARTICIPANT/SUBCONTRACTOR:

[Signature]

Printed Name: _____

Title: _____

Date: _____"

This certification is a material representation of fact upon which reliance is placed when the Department awards the grant. If it is later determined that Subrecipient knowingly rendered an erroneous certification, in addition to any other remedies available to the Federal Government, the Department may terminate this Contract for cause or default.

SUBRECIPIENT:

**[SUBRECIPIENT NAME],
a political subdivision of the State of Texas**

By: _____
Name: «Sig_Auth__First_Name» «Sig_Auth_Last_name»
Title: «Sig_Auth_title»

Date: _____

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
FY2020 COMMUNITY DEVELOPMENT BLOCK GRANT
Coronavirus Aid, Relief, and Economic Security Act (“CDBG CARES” or “CDBG-CV”)
Texas Emergency Rental Assistance Program (“TERAP”) and
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CONTRACT NO. 7210000XXXX

EXHIBIT A

CONTRACT BENCHMARKS

[SUBRECIPIENT’S NAME],
[a political subdivision of the of State of Texas]

CONTRACT BENCHMARKS¹ AS REFLECTED THROUGH THE MONTHLY EXPENDITURE AND PERFORMANCE REPORT:

1. All subawardee information provided to the Department by February 15, 2021 [other date that is approximately a month after contract start date].
2. Contract 20% expended, as provided in the Budget, by fourth month reporting.
3. Contract 40% expended, as provided in the Budget, by sixth month reporting.
4. Contract funds 100% obligated, by July 31, 2021 [other date that is approximately six months into the contract].
5. Contract 70% expended, as provided in the Budget, by ninth month reporting.
6. Contract 100% expended, as provided in the Budget, by thirteen month reporting.

¹ The Department may recapture the unexpended funding up to the expenditure benchmark funding, as further detailed in Section 4 D. of this Contract. The Department may recapture all or a portion of funding not obligated by the Contract benchmark.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
FY2020 COMMUNITY DEVELOPMENT BLOCK GRANT
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Texas Emergency Rental Assistance Program (“TERAP”) and
Texas Eviction Diversion Program (“TEDP”)**

CONTRACT NO. 7210000XXXX

EXHIBIT B

PERFORMANCE STATEMENT AND BENCHMARKS

SUBRECIPIENT NAME

a [political subdivision of the State of Texas]

CONTRACT TERM: **01/15/2020 – 01/14/2021** _____

SERVICE AREA: _____

ACTIVITIES DESCRIPTION:

A. Estimated number of Households to be assisted: **XXXX**

B. Activities:

1. To provide emergency rental assistance to low- to moderate- income tenants impacted by the Coronavirus pandemic, to help them stay housed during the pandemic.
 2. To assist eligible tenants with emergency rental assistance made directly to the landlord or property owner, on behalf of the eligible tenant.
 3. To provide up to six months of rental assistance with at least one month’s worth of current or future rent and not to exceed five months of rent in arrears.
 4. To provide up to six months of rental assistance with at least one month’s worth of current or future rent and not to exceed five months of rent in arrears to Households who have been sued for eviction (forcible detainer).

C. Reporting: By the 15th of each month, Subrecipient shall report:

Aggregate-level data to be reported via the Housing Contract System:

1. Summary data for households served by race, ethnicity, and household income level, and other demographic data as required by HUD.
2. Number of Households that received emergency rental assistance.
3. Number of Households that received emergency rental assistance through the Eviction Diversion program.
4. Total number of households served.
5. Number of pending Households to receive assistance in the following thirty (30) days.

For Texas Eviction Diversion Program:

1. Number of eligible tenants referred to the program for the previous month's activity.
2. Number of ineligible tenants referred to the program for the previous month's activity.
Number of eligible landlords referred to the program for the previous month's activity.
3. Number of ineligible landlords referred to the program for the previous month's activity.
4. Number of referred tenants withdrawing from the program.
5. Number of referred landlords withdrawing from the program.

Subrecipient must also report household-level data, including demographic data, as described on TDHCA's Excel Monthly Performance Report spreadsheet.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
 FY2020 COMMUNITY DEVELOPMENT BLOCK GRANT
 Coronavirus Aid, Relief, and Economic Security Act (“CDBG CARES” or “CDBG-CV”)
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CONTRACT NO. 7210000XXXX

EXHIBIT C

BUDGET

SUBRECIPIENT NAME

[political subdivision of the State of Texas]

LINE	CATEGORIES	CDBG-CV CONTRACT	TOTAL
05Q	Emergency Payments		
	Rental Assistance ²		
	Eviction Diversion		
21A	General Administration ³		
	TOTAL	\$	\$

² Rental Assistance may also be used for Eviction Diversion without prior Department approval, but must be reported as Eviction Diversion in the Monthly Reporting.

³ After reaching 40% of expenditure reporting of its General Administration funding under this Contract, Subrecipient will not be reimbursed for General Administration funding that is greater than 20% of its reported expenditure of Emergency Payments.