

**INTERLOCAL GOVERNMENTAL COOPERATION CONTRACT  
FOR GENERAL ADMINISTRATIVE SERVICES  
TEXAS COMMUNITY DEVELOPMENT PROGRAM**

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THE STATE OF TEXAS

AGREEMENT FOR SERVICES

COUNTY OF MONTAGUE

WHEREAS, this contract is made and entered into this 12<sup>th</sup> day of October, 2015, by and between the **County of Montague**, acting by its duly authorized Judge, after obtaining a resolution of its governing body authorizing this contract, and the Nortex Regional Planning Commission, hereinafter referred to as Nortex R. P. C. or as the Firm, a political subdivision of the State of Texas organized under Local Government Code, Subtitle C, Chapter 391, Regional Planning Commissions, Vernon's Texas Codes Annotated, acting by its duly authorized Executive Director; and,

WHEREAS, both parties to this contract are local governments as defined by Article 4413(32c), Vernon's Annotated Civil Statutes, and this contract is entered into pursuant to the provisions of said article which is commonly referred to as The Interlocal Cooperation's Act; and,

WHEREAS, the **County of Montague** desires to implement a Texas Community Development Block Grant under the general direction of the Texas Department of Agriculture (TDA); and Whereas the County desires to engage Nortex Regional Planning Commission to render General Administrative Services in connection with Contract No. 7215341.

NOW, THEREFORE, the parties do mutually agree as follows:

1. **Scope of Services**

Part II, Scope of services, is hereby incorporated by reference into this agreement.

2. **Time of Performance** – The services of Nortex R. P. C. shall commence on start date of TDA contract with the County or a date determined by Nortex and the County of Montague. In any event, all of the services required and performed hereunder shall be completed no later than sixty (60) after project completion or the end of the contract period including all TDA sanctioned extensions with the County.

3. **Access to Information** - It is agreed that all information, data, reports, records and maps as are existing, available and necessary for the carrying out of the work outlined above shall be furnished by the County and its agencies. No charge will be made to Nortex R. P. C. for such information and the County will cooperate with Nortex R. P. C. in every way possible to facilitate the performance of the work described in this contract.

4. **Compensation and Method of Payment** – The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed \$ 27,500.00 or the addition of any TDA sanctioned budget changes. Payment to Nortex R. P. C. shall be based upon satisfactory completion of identified milestones in Part III – Payment Schedule of this Contract.

5. **Indemnification** – Nortex shall comply with the requirements of all applicable laws, rules, and regulations, and shall exonerate, indemnify and hold harmless the County and its agency members from and against them, and shall assume full responsibility for the payments of Federal, State, and local taxes on contributions imposed or required under the Social Security, worker's compensation and income taxes.
6. **Authority by Which the Grant Recipient is Awarding Funds**-Referencing the Texas Government Code, Chapter 2254, Subchapter A, "Professional Services," which permits and outlines state requirements for municipalities and counties regarding procurement of professional services.
7. **Miscellaneous Provisions**
  - a. This Agreement shall be construed under and in accord with the laws of the State of Texas, and all Obligations of the parties created hereunder are performable in **Montague** County, Texas
  - b. This agreement shall be binding upon and insure to the benefit of the parties hereto and respective heirs, executors, administrators, legal representative, successors and assigns where permitted by this Agreement.
  - c. If in any case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained therein.
  - d. If any action at law or equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
  - e. This agreement may be amended by mutual agreement of the parties hereto and a writing to be attached to this agreement.
  - f. Nortex R. P. C. and no official or employee thereof shall have any personal financial interest, direct or indirect, in this Agreement; and Nortex R. P. C. shall take steps to assure compliance.
  - g. Local Program Liaison shall be the **County Judge**.
  - h. Resolution of Program Non-compliance for this contract includes responsibilities for grant funds that Nortex R.P.C. causes to be deobligated through error or omission, opportunities to cure errors, and final settlement should deobligation be enforced.


8. **Terms and Conditions** – This Agreement is subject to the provisions titled, “Part IV Terms and Conditions” and attached hereto and incorporated by reference herein.

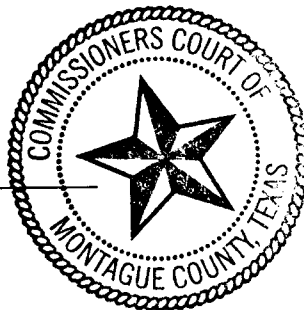
IN WITNESSETH HEREOF; the parties have hereunto set their hands and seals.

NORTEX REGIONAL PLANNING COMMISSION

By:   
Dennis Wilde, Executive Director

COUNTY OF MONTAGUE, TEXAS

By:   
Rick Lewis, County Judge



## PART II PROFESSIONAL MANAGEMENT SCOPE OF SERVICES

The Management Firm shall provide the following scope of services:

### A. Project Management

1. Develop a recordkeeping system consistent with program guidelines, including the establishment of a filing system
2. Maintenance of filing system
3. Provide general advice and technical assistance to Grant Recipient personnel on implementation of project and regulatory matters
4. Assist in the procurement of professional consulting engineering services through the request for proposal process, if applicable, and as required by the CDBG regulations
5. Furnish Grant Recipient with necessary forms and procedures required for implementation of project
6. Assist the Grant Recipient in meeting all special condition requirements that may be stipulated in the contract between the Grant Recipient and TDA
7. Prepare and submit to Office documentation necessary for amending the CDBG contract
8. Conduct re-assessment of environmental clearance for any program amendments
9. Prepare and submit quarterly reports
10. Prepare Financial Interest Report form for Grant Recipient submittal
11. Establish procedures to document expenditures associated with local administration of the project
12. Provide guidance and assistance to Grant Recipient regarding acquisition of property:
  - Submit required reports concerning acquisition activities to Office
  - Establish a separate acquisition file for each parcel of real property acquired
  - Determine necessary method(s) for acquiring real property
  - Prepare correspondence to the property owners for the Grant Recipient's signature to acquire the property or to secure an easement
  - Assist the Grant Recipient in negotiation with property owner(s)
13. Maintain CDBG Property Management register for any property/equipment purchased or leased
14. Serve as liaison for the Grant Recipient during any monitoring visit by staff representatives from either TxCDBG or HUD

### B. Financial Management

1. Assist the Grant Recipient in proving its ability to manage the grant funds to the state's audit division.
2. Assist the Grant Recipient in establishing and maintaining a bank account (Direct Deposit account) and/or separate local bank account, journals and ledgers.
3. Assist the Grant Recipient in submitting the required Accounting System Certification letter, Direct Deposit Authorization Form (if applicable), and/or Depository/Authorized Signatory form to Office.
4. Prepare all fund drawdowns on behalf of the Grant Recipient in order to ensure orderly, timely payments to all contracting parties within the allotted time period.
5. Review invoices received for payment and file back-up documentation
6. Provide general advice and technical assistance to Grant Recipient personnel on implementation of project and regulatory matters
7. Assist the Grant Recipient in establishing procedures to handle the use of any CDBG program income.

### C. Environmental Review

1. Prepare environmental assessment.
2. Coordinate environmental clearance procedures with other federal or state agencies and interested parties responsible for implementing applicable laws.
3. Document consideration of any public comments.
4. Prepare any required re-assessment of environmental assessment.
5. Ensure compliance with EO 11988 for projects in the flood plains.
6. Prepare Request for Release of Funds and certifications to be sent to TxCDBG.

### D. Acquisition

1. Prepare required acquisition reports(s).
2. Obtain documentation of ownership for Recipient-owned property and/or ROWs.
3. Maintain a separate file for each parcel of real property acquired.
4. Determine necessary method(s) for acquiring real property.
5. Prepare correspondence with property owners.
6. Assist Grant Recipient in negotiations with property owner(s).
7. Prepare required acquisition reports and submit to TxCDBG.

E. Construction Management

1. Establish procedures to document expenditures associated with local construction of the project (if force account is applicable).
  - Assist Grant Recipient in determining whether and/or what CDBG contract activities will be carried out in whole or in part via force account labor.
  - Assist Grant Recipient in determining whether or not it will be necessary to hire temporary employees to specifically carry out CDBG contract activities.
  - Assist Grant Recipient in maintaining adequate documentation of personnel, equipment and materials expended/used and their costs.
2. Assist Grant Recipient in documenting compliance with all federal and state requirements related to equal employment opportunity.
3. Assist Grant Recipient in documenting compliance with all federal and state requirements related to minimum wage and overtime pay requirements.
4. Provide assistance to or act as local labor standards officer. Notify TxCDBG in writing of name, address, and phone number of appointed labor standards compliance officer.
5. Request wage rates from TxCDBG.
6. Provide sample CDBG contract documents to engineer.
7. Advertise for bids.
8. Make ten-day call to TxCDBG.
9. Verify construction contractor eligibility with TxCDBG.
10. Review construction contract.
11. Conduct pre-construction conference and prepare minutes.
12. Submit any reports of additional classification and rates to TxCDBG.
13. Issue Notice of Start of Construction to TxCDBG.
14. Review weekly payrolls, including compliance follow-ups. Conduct employee interviews.
15. Process change orders approved by Grant Recipient and the project engineer and submit to TxCDBG prior to execution with the construction contractor.
16. Obtain Certificate of Construction Completion/Final Wage Compliance Report and submit to TxCDBG.
17. Provide general advice and technical assistance to Grant Recipient personnel on implementation of project and regulatory matters.

F. Fair Housing / Equal Opportunity

1. Assist the Grant Recipient in developing, implementing and documenting new activities to affirmatively further fair housing activities during the contract period.
2. Maintain documentation of all project beneficiaries by ethnicity and gender.
3. Prepare Section 3 and Affirmative Action Plan.
4. Prepare all Section 504 requirements.
5. Provide all applicable equal opportunity provisions and certifications for inclusion in bid packet

G. Relocation

1. Prepare and submit local relocation guidelines to Office for approval.
2. Assist Grant Recipient in identifying individuals to be relocated and prepare appropriate notices.
3. Interview relocatees and identify assistance needs.
4. Maintain a relocation record for each individual/family.
5. Provide education/assistance to relocatees.
6. Inventory local available housing resources and maintain a referral list.
7. Issue appropriate notices to relocatees.
8. Ensure that all payments are made in a timely manner.

H. Rehabilitation of Private Property

1. Prepare and submit local rehabilitation guidelines to TxCDBG for approval.
2. Assist Grant Recipient in establishing escrow account and obtaining Office approval.
3. Develop outreach and necessary application processing/verification forms.
4. Screen applicants.
5. Prepare work write-ups and cost estimates.
6. Issue Notice to Proceed to construction contractor(s).
7. Conduct interim/final inspections, process final contract documents, and maintain a record of beneficiaries.
8. Maintain client files following Office requirements.

I. Audit / Close-out Procedures

1. Prepare the Project Completion Report.
2. Assist Grant Recipient in resolving any monitoring and audit findings.
3. Assist Grant Recipient in resolving any third party claims.
4. Provide auditor with CDBG audit guidelines.

**PART III**

**PAYMENT SCHEDULE**

**PROFESSIONAL MANAGEMENT SERVICES**

Locality shall reimburse Nortex Regional Planning Commission for management services provided for completion of the following project milestones per the following percentages of the maximum contract amount.

<u>Milestones</u>	<u>% of Contract Fee</u>
Project Management	15%
Financial Management	20%
Environmental Review	20%
Acquisition	5%
Construction Management	20%
Fair Housing/Equal Opportunity	10%
Audit/Close-out Procedures	10%
Total	100%

## PART IV TERMS AND CONDITIONS

### *PROFESSIONAL MANAGEMENT, ENGINEERING AND/OR ARCHITECTURAL SERVICES*

1. Termination of Contract for Cause. If, through any cause, the Firm shall fail to fulfill in a timely and proper manner his/her obligations under this Contract, or if the Firm shall violate any of the covenants, agreements, or stipulations of this Contract, the City/County shall thereupon have the right to terminate this Contract by giving written notice to the Firm of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Firm under this Contract shall, at the option of the City/County, become its property and the Firm shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Firm shall not be relieved of liability to the City/County for damages sustained by the City/County by virtue of any breach of the Contract by the Firm, and the City/County may withhold any payments to the Firm for the purpose of set-off until such time as the exact amount of damages due the City/County from the Firm is determined.

2. Termination for Convenience of the City/County. The City/County may terminate this Contract at any time by giving at least ten (10) days notice in writing to the Firm. If the Contract is terminated by the City/County as provided herein, the Firm will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Firm, Paragraph 1 hereof relative to termination shall apply.
3. Changes. The City/County may, from time to time, request changes in the scope of the services of the Firm to be performed hereunder. Such changes, including any increase or decrease in the amount of the Firm's compensation, which are mutually agreed upon by and between the City/County and the Firm, shall be incorporated in written amendments to this Contract.
4. Personnel.
  - a. The Firm represents that he/she has, or will secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City/County.
  - b. All of the services required hereunder will be performed by the Firm or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
  - c. None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the City/County. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.
5. Assignability. The Firm shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or notation), without the prior written consent of the City/County thereto: Provided, however, that claims for money by the Firm from the City/County under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City/County.
6. Reports and Information. The Firm, at such times and in such forms as the City/County may require, shall furnish the City/County such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.
7. Records and Audits. The Firm shall insure that the City/County maintains fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to OMB Circular A-87, Section 570.490 of the Regulations, and this Contract. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Contract. City/County shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Contract or the period required by other applicable laws and regulations.
8. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Firm under this contract are confidential and the Firm agrees that they shall not be made available to any individual or organization without the prior written approval of the City/County.

9. Copyright. No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Firm.
10. Compliance with Local Laws. The Firm shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Firm shall save the City/County harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Contract.
11. Equal Employment Opportunity. During the performance of this Contract, the Firm agrees as follows:
  - a. The Firm will not discriminate against any employee or applicant for employment because of race, creed, sex, color, handicap or national origin. The Firm will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, handicap or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Firm agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City/County setting forth the provisions of this non-discrimination clause.
  - b. The Firm will, in all solicitation or advertisements for employees placed by or on behalf of the Firm, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, handicap or national original.
  - c. The Firm will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
  - d. The Firm will include the provisions a. through c. in every subcontract or purchase order unless exempted.
12. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
13. Section 109 of the Housing and Community Development Act of 1974.
  - a. No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
14. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities.
  - a. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Office of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns that are located in, or owned in substantial part by persons residing in the area of the project.
  - b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 C.F.R. 235, and all applicable rules and orders of TxCDBG issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.
  - c. The Firm will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 C.F.R. Part 135. The Firm will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 C.F.R. Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
15. Section 503 Handicapped (if \$2,500 or Over) Affirmative Action for Handicapped Workers
  - a. The Firm will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Firm agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.



- b. The Firm agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
  - c. In the event of the Firm's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
  - d. The Firm will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.
16. Interest of Members of a City/County. No member of the governing body of the City/County and no other officer, employee, or agent of the City/County, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract. And the Firm shall take appropriate steps to assure compliance.
17. Interest of Other Local Public Officials. No member of the governing body of the Grant Recipient and no other public official of such Grant Recipient, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Firm shall take appropriate steps to assure compliance.
18. Interest of Firm and Employees. The Firm covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. The Firm further covenants that in the performance of this Contract, no person having any such interest shall be employed.

## RESOLUTION

**WHEREAS**, the County of Montague, Texas recently received a Texas Community Development Program (TxCDBG) Block Grant of \$275,000.00 to help fund a Street Improvement Project from the Texas Department of Agriculture (TDA), and

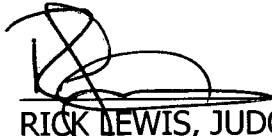
**WHEREAS**, this Street Improvement Project is urgently needed, consequently the Commissioner's Court wishes to move forward on this work as expeditiously as possible:

**NOW, THEREFORE BE IT RESOLVED BY THE COMMISSIONER'S COURT OF THE COUNTY OF MONTAGUE, TEXAS IN REGULAR SESSION THIS THE 12<sup>th</sup> DAY OF OCTOBER, 2015 :**

1. That the County of Montague accepts the TxCDBG grant Contract No. 7215341 from the Texas Department of Agriculture and directs and authorizes the Mayor to execute a contract with TDA to this end.
2. That the County of Montague accepts the offer of Nortex Regional Planning Commission to provide General Administrative Services required by this TxCDBG grant to the County of Montague for a fee of \$27,500.00.
3. That the County of Montague directs Nortex Regional Planning Commission to initiate a request for proposals and other steps as specified in the current TxCDBG Project Implementation Manual, which are necessary for the procurement of engineering services needed for this Street Improvement Project.
4. That the County of Montague appoints the County Judge and County Commissioner #3, as signatories authorized to sign contractual documents, and Request for Payment Forms. That the County also appoints the County Auditor and Administrative Assistant to the County Judge as signatories to sign the Request for Payment Form associated with this Community Development Block Grant which are sent to the Texas Department of Agriculture to obtain funding from the Treasury of the State of Texas for activities covered by this TDA Grant.


5. That the County of Montague appoints the Administrative Technician of the Regional Services Department of Nortex Regional Planning Commission as Labor Standards Officer and the County Judge as the EEO/Fair Housing Officer for the TDA Grant.
6. That the County of Montague appoints the County Judge as the Certifying Environmental Officer for this TDA Grant.

**PASSED AND APPROVED on this 12<sup>TH</sup> DAY OF OCTOBER, 2015.**

  
\_\_\_\_\_  
RICK LEWIS, JUDGE  
COUNTY OF MONTAGUE, TEXAS



**ATTEST:**

  
\_\_\_\_\_  
GLENDA HENSON, CITY CLERK  
COUNTY OF MONTAGUE, TEXAS

**A1008**



# Designation Form for Civil Rights Officer



City/County: Montague County  
 Address: P O Box 475  
Montague, TX 76251-0475  
 Telephone Number: 940-894-2401

TxCDBG Contract # 7215341

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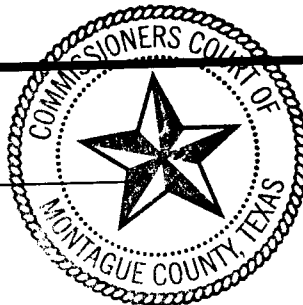
I, Rick Lewis, do hereby appoint Rick Lewis/ County Judge,  
 (Chief Elected Official) (Name and Title)  
 as the Civil Rights Officer for the County of Montague.

The Civil Rights Officer shall be responsible for the oversight and compliance of fair housing and equal opportunity activities to be performed by the County of Montague, as required by the Texas Community Development Block Grant Program Contract No. 7215341

The Civil Rights Officer is responsible for being familiar with and adhering to all civil rights laws and regulations pertaining to the Texas Community Development Block Grant Program, including those described in the TxCDBG Implementation Manual and those listed in the TxCDBG contract.

Civil Rights Officer: [Signature]  
 (Signature)

Appointed by: [Signature]  
 (Signature)



Date: Oct. 12, 2015



**RESOLUTION AUTHORIZING SIGNATORIES**

A RESOLUTION BY COMMISSIONER'S COURT OF THE COUNTY OF MONTAGUE TEXAS, DESIGNATING AUTHORIZED SIGNATORIES FOR CONTRACTUAL DOCUMENTS AND DOCUMENTS FOR REQUESTING FUNDS PERTAINING TO THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (TxCDBG) CONTRACT NUMBER 7215341.

WHEREAS, the County of Montague, Texas has received a 2015 Texas Community Development Block Grant award to provide street improvements, and;

WHEREAS, it is necessary to appoint persons to execute contractual documents and documents for requesting funds from the Texas Department of Agriculture, and;

WHEREAS, an original signed copy of the TxCDBG *Depository/Authorized Signatories Designation Form (Form A202)* is to be submitted with a copy of this Resolution, and;

WHEREAS, the County of Montague, Texas acknowledges that in the event that an authorized signatory of the County changes (elections, illness, resignations, etc.), the County must provide TxCDBG with the following:

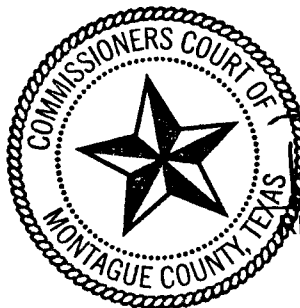
- a resolution stating who the new authorized signatory is (not required if this original resolution names only the title and not the name of the signatory); and
- a revised TxCDBG *Depository/ Authorized Signatories Designation Form (Form A202)*.

NOW THEREFORE, BE IT RESOLVED BY THE COMMISSIONER'S COURT OF THE COUNTY OF MONTAGUE, TEXAS, AS FOLLOWS:

The County Judge and County Commissioner #3 be authorized to execute contractual documents between the Texas Department of Agriculture and the County for the 2015 Texas Community Development Block Grant Program.

The County Judge, County Commissioner #3, County Auditor, and Administrative Assistant to the County Judge be authorized to execute the *State of Texas Purchase Voucher and Request for Payment Form* documents required for requesting funds approved in the 2015 Texas Community Development Block Grant Program.

PASSED AND APPROVED BY COMMISSIONER'S COURT OF THE COUNTY OF MONTAGUE, TEXAS on Oct. 12, 2015.



  
\_\_\_\_\_  
NICK LEWIS, MONTAGUE COUNTY JUDGE

Attest:

  
\_\_\_\_\_  
GLENDA HENSON, MONTAGUE COUNTY CLERK

**Appointment of Labor Standards Officer**  
 (Submit form to Labors@TexasAgriculture.gov )

**A701**

Grant Recipient: Montague County Contract No: 7215341

I, Rick Lewis hereby appoint Deborah Milbern  
(Print County Judge) (Print Name)

as the Labor Standards Officer for the aforementioned contract. The appointed Labor Standards Officer is assigned to oversee the labor portion of the contract and will be responsible for assuring compliance with all requirements under **Chapter 7 of the TxCDBG Project Implementation Manual.**

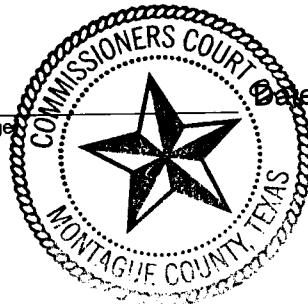
Appointed Labor Standards Officer Name:	Deborah Milbern				
Address:	P O Box 5144				
City:	Wichita Falls	State:	TX	Zip:	76307
Telephone Number:	940-322-5281	Fax Number:	940-322-6743		
Email Address:	dmilbern@nortexrpc.org				

I acknowledge the appointment and duties of Labor Standards Officer.

Signature: Deborah Milbern Date: 10-14-15  
(Labor Standards Officer)

Appointed by: Rick Lewis Title: Montague County Judge  
(Print County Judge)

Signature: [Signature] Date: Oct. 12, 2015  
(County Judge)



**AGREEMENT BETWEEN THE TEXAS DEPARTMENT OF AGRICULTURE  
AND  
THE COUNTY OF MONTAGUE  
CONTRACT NO. 7215341  
FOR  
THE COMMUNITY DEVELOPMENT FUND**

**SECTION 1. PARTIES TO CONTRACT**

This contract and agreement is made and entered into by and between the Texas Department of Agriculture (herein referred to as the "Department"), an agency of the State of Texas, and the County of Montague (herein referred to as the "Contractor"). The Department and the Contractor are collectively referred to hereinafter as the "Parties." The Parties have severally and collectively agreed and by the execution hereof are bound to the mutual obligations and to the performance and accomplishment of the tasks described herein.

**SECTION 2. CONTRACT PERIOD**

This contract and agreement shall commence on October 15, 2015, and shall terminate on October 14, 2017, unless otherwise specifically provided by the terms of this contract.

**SECTION 3. PURPOSE**

The Department has been designated as the state agency to administer, and the United States Government has awarded the Department funds for, the Texas Community Development Block Grant ("TxCDBG") Program under Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.), herein referred to as the "HCD Act."

The Contractor has submitted, and the Department has approved, Contractor's application (herein referred to as the "Application") which will undertake community development activities (herein referred to as the "Project") and which is incorporated as part of this contract.

**SECTION 4. CONTRACTOR PERFORMANCE**

A. The Contractor shall conduct the Project in a non-entitlement area in a manner satisfactory to the Department and consistent with any standards required as a condition of providing these funds. The authorized use of TxCDBG funds is premised upon, and conditioned on, the Contractor fulfilling a CDBG national objective as a result of the TxCDBG-assisted activities. The Contractor shall perform all activities in accordance with the terms of the Performance Statement (Exhibit A); the Budget, (Exhibit B); the Project Implementation Schedule (Exhibit C); the Special Conditions (Exhibit D); the Applicable Laws and Regulations (Exhibit E); the Certifications (Exhibit F); the assurances, certifications, and all other statements made by the Contractor in the Application; and with all other terms, provisions, and requirements set forth in this contract.

B. The Contractor shall ensure that the persons to benefit from the activities described in the Performance Statement are receiving the service or a benefit from the use of the new or improved facilities and activities for the contract obligations to be fulfilled and before submitting the Project Completion Report to the Department. If the persons to benefit from the activities described in the Performance Statement are not receiving the service or a benefit, the Contractor is liable to repay to the Department any associated disallowed costs within the timeframe specified by the Department.

C. The Contractor shall adhere to the Project Implementation Schedule timelines for key project activities. As described in the TxCDBG Project Implementation Manual and policy directives, the Department may require the Contractor to submit written justification and take remedial action for any contract activity that is not completed by the date specified on the Project Implementation Schedule.



## SECTION 5. DEPARTMENT OBLIGATIONS

### A. Payment for Allowable Costs

In consideration of full and satisfactory performance of the activities referred to in Section 4 of this contract, the Department shall be liable for actual and reasonable costs incurred by the Contractor during the contract period for performances rendered under this contract, subject to the limitations set forth in this Section.

1. It is expressly understood and agreed by the Parties that the Department's obligations under this contract are contingent upon the actual receipt of adequate state or federal funds to meet the Department's liabilities under this contract. If adequate funds are not available to make payments under this contract, the Department shall notify the Contractor in writing within a reasonable time after such fact is determined. The Department shall terminate this contract and will not be liable for failure to make payments to the Contractor under this contract.
2. The Department shall not be liable to the Contractor for any costs incurred by the Contractor, or any portion thereof, which has been paid or is subject to payment to the Contractor, or has been reimbursed or is subject to reimbursement to the Contractor by any source other than the Department or the Contractor.
3. The Department shall not be liable to the Contractor for any costs incurred by the Contractor which are not allowable costs, as set forth in Section 7 of this contract.
4. The Department shall not be liable to the Contractor for any costs incurred by the Contractor or for any performances rendered by the Contractor which are not strictly in accordance with the terms of this contract.
5. The Department shall not be liable for costs incurred or performances rendered by the Contractor before commencement of this contract or after termination of this contract. The Department may reimburse allowable administrative and engineering costs incurred by the Contractor prior to this contract's execution date, if prior to the award the Contractor requested and received written approval from the Department, and the Contractor complied with all requirements for the release of such funds.
6. The Department shall not be liable to the Contractor for any costs incurred by the Contractor in the performance of this contract which have not been submitted to the Department by the Contractor within 60 days following termination of this contract, with the exception of administrative costs for preparation of a Single Audit. Administration funds reserved on the Certificate of Expenditures for audit costs and eligible for reimbursement shall be billed to the Department within nine (9) months after the end of the Contractor's fiscal year that follows the termination date of this contract. The Department shall deobligate all funds not requested under this paragraph.

### B. Excess Payments

The Contractor shall refund to the Department any sum of money which has been paid to the Contractor by the Department which the Department determines has resulted in overpayment to the Contractor, or which the Department determines has not been spent by the Contractor in accordance with the terms of this contract. Such refund shall be made by the Contractor to the Department within 30 calendar days after such refund is requested by the Department.

### C. Limit of Liability

Notwithstanding any other provision of this contract, it is expressly agreed and understood that the total amount to be paid by the Department to Contractor for allowable expenses incurred under this contract shall not exceed Two Hundred Seventy-five Thousand and No/100 Dollars (\$275,000).

## SECTION 6. GENERAL CONDITIONS

### A. General Compliance

The Contractor agrees to comply with the requirements of Title 24 of the Code of Federal Regulations (CFR) Part 570 (the U.S. Housing and Urban Development [HUD] regulations concerning CDBG), in particular Subparts I - K. The Contractor also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract, including those specified in the Applicable Laws and Regulations attached to this contract. The Contractor further agrees to utilize funds available under this contract to supplement rather than supplant funds otherwise available.

### B. "Independent Contractor"

Nothing contained in this contract is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Contractor shall at all times remain an "independent contractor" with respect to the services to be performed under this contract.

### C. Indemnification

The Contractor agrees, to the extent allowed by law, to hold harmless, defend and indemnify the Department from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Contractor's performance or nonperformance of the activities, services or subject matter called for in this contract.

### D. Department Recognition

1. Public buildings, facilities, and centers, including infrastructure visible to the general public, constructed with funds provided under this contract shall have permanent signage placed in a prominent visible public area with the wording provided below.
2. Other construction projects, e.g., water transmission lines, sewer collection lines, drainage, roadways, housing rehabilitation, etc., utilizing funds provided under this contract shall have temporary signage erected in a prominent location at the construction project site or along a major thoroughfare within the locality as directed by the owner.
3. Size and Formatting. The signage must be legible from a distance of at least three feet and comply with the size and formatting requirements set forth in the TxCDBG Project Implementation Manual.
4. Project Sign Wording: "This project is funded by the Office of Rural Affairs of the Texas Department of Agriculture with funds allocated by the United States Department of Housing and Urban Development through the Community Development Block Grant Program."

### E. Changes and Amendments

1. Except as specifically provided otherwise in this contract, any alterations, additions, or deletions to the terms of this contract shall be by amendment in writing and executed by both parties to this contract or as otherwise provided in the TxCDBG Project Implementation Manual. Such amendments shall not invalidate this contract, nor relieve or release the Department or the Contractor from its obligations under this contract.
2. A request for an extension must be supported by documentation of extenuating circumstances beyond Contractor's control which prevented completion of the project within the contract period.
3. A request to extend the contract period should be submitted in writing to the Department as soon as a delay is foreseen. Contract extension requests must be submitted to the Department approximately 60 days but no later than 30 days prior to the expiration of the contract and include a revised implementation schedule showing when

major milestones will be completed for each activity. A request for an exception to the requirements specified in this paragraph will be evaluated in accordance with the applicable section of the TxCDBG Project Implementation Manual.

4. It is understood and agreed by the parties that performances under this contract must be rendered in accordance with the HCD Act; the policies, procedures and regulations of the Department; assurances and certifications made to the Department by the Contractor; and the assurances and certifications made to HUD by the State of Texas with regard to the operation of the TxCDBG Program. Based on these considerations, and in order to ensure the legal and effective performance of this contract by both parties, it is agreed by the parties that the performances under this contract are amended by the provisions of the TxCDBG Project Implementation Manual and any amendments thereto and may further be amended in the following manner: The Department may from time to time during the period of performance of this contract issue policy directives which serve to establish, interpret, or clarify performance requirements under this contract. Such policy directives shall be promulgated by the Department in the form of TxCDBG issuances, shall have the effect of qualifying the terms of this contract and shall be binding upon the Contractor, as if written herein, provided however that the policy directives and any amendments to the TxCDBG Project Implementation Manual shall not alter the terms of this contract so as to release the Department from any obligation specified in Section 5 of this contract to reimburse costs incurred by the Contractor prior to the effective date of the amendments or policy directives.

5. Any alterations, additions, or deletions to the terms of this contract which are required by changes in Federal or State law or regulations are automatically incorporated into this contract without written amendment and shall become effective on the date designated by such law or regulation.

#### F. Remedies for Noncompliance

##### 1. Suspension or Termination

a. The Department may suspend or terminate this contract, in whole or in part, if the Contractor materially fails to comply with any term of this contract, including but not limited to:

- (1) Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
- (2) Failure, for any reason, of the Contractor to fulfill its obligations under this contract within the timeframes and manner as specified by the Department;
- (3) Failure to complete activities in accordance with the Project Implementation Schedule;
- (4) Failure to submit to the Department, within the timeframes and manner as specified by the Department, any report required by this contract;
- (5) Submission by the Contractor to the Department reports that are incorrect or incomplete in any material respect; or
- (6) Misuse or improper use of funds provided under this contract.

b. Knowingly making false statements or providing false information on a grant application, certification, or report submitted to the Department is grounds for termination of the contract award.

c. The contract may also be terminated for convenience, in whole or in part, only as follows:

(1) by the Department with the consent of the Contractor in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated; or

(2) by the Contractor upon written notification to the Department, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the Department determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the Department may terminate the award in its entirety.

d. Upon termination or receipt of notice to terminate, whichever occurs first, the Contractor shall cancel, withdraw, or otherwise terminate any outstanding orders or subcontracts related to the performance of this contract or the portion of this contract to be terminated, as applicable, and shall cease to incur costs thereunder. The Department shall not be liable to the Contractor for costs incurred after termination of this contract.

e. Notwithstanding any exercise by the Department of its right of suspension or termination as provided in this Section, the Contractor shall not be relieved of any liability to the Department for damages due to the Department by virtue of any breach of this contract by the Contractor. The Department may withhold payments to the Contractor until such time as the exact amount of damages due to the Department from the Contractor is agreed upon or is otherwise determined.

2. If the Contractor materially fails to comply with any term of the award, whether stated in a federal or state statute or regulation, an assurance, in a state plan or application, a notice of award, or elsewhere, the Department, until it is satisfied that there is no longer any such failure to comply, will take one or more of the following actions, or impose other sanctions, as appropriate in the circumstances:

- a. Terminate payments to the Contractor under this contract;
- b. Temporarily withhold payments pending correction of the deficiency by the Contractor;
- c. Reduce the grant award or disallow all or part of the cost of the activity or action not in compliance;
- d. Wholly or partly suspend or terminate the current award;
- e. Withhold further awards for the program; or
- f. Take other remedies that may be legally available.

3. Reduction of Payments. In addition to, or in lieu of, any other right or remedy specified in this contract, as determined by the Department, in its sole discretion, violations or breaches by the Contractor of certain contractual and TxCDBG program requirements will result in the reduction of Administration funds awarded under this contract in accordance with the following table:

<u>Violation</u>	<u>Amount of Reduction</u>
▪ Acquisition	10%
▪ Environmental Clearance	15%
▪ Equal Employment Opportunity/Fair Housing	10%
▪ Labor Standards	15%
▪ Inaccurate or incomplete reporting	10%
○ Progress Reports	
○ Project Completion Report	
○ "Section 3" Reports	

4. Withholding of Payments. In addition to the limitations on liability otherwise specified in this contract, if the Contractor fails to submit to the Department in a timely and satisfactory manner any report required by this contract, the Department shall, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by the Contractor. If the Department withholds such payments, it shall notify the Contractor in writing of its decision and the reasons therefore. Payments withheld pursuant to this section may be held by the

Department until such time as the delinquent obligations for which funds are withheld are fulfilled by the Contractor.

5. Ineligibility Period

a. Delinquent audit. If the Contractor fails to comply with the single audit requirements specified in this contract and fails to submit an acceptable audit report within 90 days after the receipt of notice by the Department that the audit is past due, the Contractor shall be ineligible to receive other TxCDBG grant funding opportunities for a period of one year after the 90-day period.

b. Delinquent debt. If the Department requests or requires the Contractor to repay funds to the Department as a result of the Contractor's noncompliance with contractual or TxCDBG program requirements and the Contractor fails to repay the funds by such date as specified by the Department, the Contractor shall be ineligible to receive any future TxCDBG grant funding until the Contractor has repaid the entire obligation to the Department.

6. Opportunity to cure. The Department shall give the Contractor an opportunity to cure a breach of contract as follows:

- a. Department shall provide written notice to the Contractor, detailing all elements of the breach or noncompliance.
- b. Contractor must commence cure within 30 days of the Department's notice.
- c. Contractor must notify the Department in writing within 30 days that cure has begun and provide detailed explanation of the steps being made to cure the breach or noncompliance.
- d. Contractor must complete the cure within 90 days of the Department's notice.
- e. Failure to commence cure within 30 days, or failure to complete cure within 90 days, will result in the Department's right to immediately terminate the contract or take other remedial action that may be legally available.

## SECTION 7. ADMINISTRATIVE REQUIREMENTS

### A. Financial Management

1. Uniform Administrative Requirements and Accounting Standards. Except as specifically modified by law or the provisions of this contract, the Contractor shall comply with the requirements of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," and, to the extent applicable, the rules promulgated by the Office of the Comptroller under the Uniform Grant and Contract Management Act (Tex. Gov't. Code Chapter 783, referred to as "UGCMS"). The Contractor agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The allowability of costs incurred for performances rendered under this contract shall be determined in accordance with 2 CFR Part 200 subpart E, UGCMS and this contract.

### B. Documentation and Record Keeping

1. Records to be Maintained. The Contractor shall maintain all records required by the Federal regulations specified in 24 CFR 570.490 and 570.506 that are pertinent to the activities to be funded under this contract. Such records shall include but are not limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c. Records required to determine the eligibility of activities;

- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with TxCDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program (Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this contract);
- f. Financial records as required by 24 CFR 570.502;
- g. Records documenting compliance with labor standards and environmental review; and
- h. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Audits & Inspections/Access to Records

a. The Contractor shall give HUD, the Inspector General, the General Accounting Office, the Auditor of the State of Texas, an office or agency of the State of Texas, and the Department, or any of their duly authorized representatives, access to all books, accounts, records, reports, files, and other papers or property pertaining to the administration, receipt and use of TxCDBG funds as may be necessary to facilitate their review and audit of the Contractor's administration and use of TxCDBG funds received under this contract. Such rights to access shall continue as long as the records are retained by the Contractor. The Contractor agrees to maintain such records in an accessible location and to provide citizens reasonable access to such records consistent with the Texas Public Information Act (Tex. Gov't. Code, Chapter 552). The Contractor shall include the substance of this clause concerning the authority to audit funds and the requirement to cooperate in all subcontracts it awards.

b. Any deficiencies noted in audit reports must be fully cleared by the Contractor within 30 days after receipt by the Contractor. Failure of the Contractor to comply with the audit requirements will constitute a violation of this contract and will result in the Contractor's ineligibility to receive other TxCDBG funding opportunities for a period of one year as provided in Section 6 of this contract.

c. The Contractor understands and agrees that it shall be liable to the Department for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this contract. The Contractor further understands and agrees that reimbursement to the Department of such disallowed costs shall be paid by the Contractor from funds which were not provided or otherwise made available to the Contractor under this contract.

3. Records Retention. The Contractor shall retain all financial and programmatic records, supporting documents, statistical records, and all other records required to be maintained in accordance with 24 CFR 570.490 and 570.506, 2 CFR 200.333, and this contract for the greater of: (i) three years after close-out of the grant from HUD to the State of Texas (not the closeout of this contract); or (ii) other record retention obligations specific to the Contractor's contract or project. Contractor may be required to meet record retention requirements greater than those specified in this Section until audit issues are resolved to the Department's satisfaction, the requirements of 24 CFR 570.487 and 570.488 are met, or the requirements of other applicable law or regulations are met. The Department posts a list on its website of contracts that HUD has closed out with the State of Texas. These contracts are listed by closed Program Year, updated once a year or as needed. In the event Contractor has a question regarding the record retention requirements under this contract, it should contact the Department. The Contractor shall include the substance of this clause in all subcontracts it awards.

4. Close-outs. The Contractor's obligation to the Department shall not end until all close-out requirements are completed. Activities during this close-out period shall include but are not limited to: making final payments, disposing of program assets (including the return of all unspent funds, program income balances, and accounts receivable to the Department), and determining the custodianship of records. The Contractor shall submit all required close-out reports to the Department, in a format prescribed by the Department, no later than 60 days after the contract termination date or at the conclusion of all contract activities as determined by the Department. Notwithstanding the foregoing, the terms of this contract shall remain in effect during any period that the Contractor has control over TxCDBG funds, including program income.

### C. Reporting and Payment Procedures

1. Program Income. In the same manner as required for all other funds under this contract, the Contractor shall maintain records of the receipt, accrual, and disposition of all program income (as defined at 24 CFR 570.489(e)) generated by activities carried out with TxCDBG funds made available under this contract. The use of program income by the Contractor shall comply with the requirements set forth at 24 CFR 570.489(e) and 570.504. By way of further limitations, the Contractor shall use such income during the contract period for activities permitted under this contract prior to requesting additional funds from the Department. The Contractor shall provide reports of program income to the Department with each payment request form submitted by the Contractor in accordance with the payment procedures described herein, and at the termination of this contract. All unexpended program income shall be returned to the Department at the end of the contract period, unless otherwise specifically provided within this contract.

#### 2. Payment Procedures

a. The Department shall pay to Contractor based upon information submitted by the Contractor, consistent with the approved budget and Department policy concerning payments. Payments shall be made for eligible expenses actually incurred by the Contractor, and not to exceed actual cash requirements. Payments will be adjusted by the Department in accordance with program income balances available in Contractor accounts.

b. The Department shall not be liable to the Contractor for any costs incurred by the Contractor under this contract until the Contractor submits to the Department a properly completed Form A202, Depository/Authorized Signatories Designation Form, found in Chapter 2 of the TxCDBG Project Implementation Manual.

c. The Contractor shall submit to the Department at its offices in Austin, Texas, a properly completed Request for Payment form as specified by the Department. Contractor should submit a request for payment under each budget line item, or a written justification for the delay in drawdown of funds, within nine (9) months of the contract start date and every nine (9) months thereafter. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in the Budget and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in the Budget and in accordance with performance. The Department shall determine the reasonableness of each amount requested and shall not make disbursement of any such payment until the Department has reviewed and approved such Request.

d. Notwithstanding the provisions of clauses C.2.a to C.2.c of this Section, it is expressly understood and agreed by the Parties that payments under this contract are contingent upon the Contractor's full and satisfactory performance of its obligations under this contract.

3. Progress Reports. The Contractor shall submit regular Progress Reports to the Department in the form, content, and frequency as required by the Department. The Contractor shall comply with all reporting and submission requirements of the Federal Funding Accountability and Transparency Act (Public Law 109-282, as amended by section 6202(a) of Public Law 110-252; 31 U.S.C. § 6101 note), as well as the reporting and submission requirements of HUD as prescribed by the Department.

The Contractor is required to immediately report to the Department any incident of misapplication of TxCDBG funds, or other instances of fraud affecting TxCDBG funds or related projects, associated with this contract.

### D. Procurement

Unless specified otherwise within this contract, the Contractor shall procure all materials, property, or services in accordance with: (1) current Department policy concerning procurements, (2) the requirements of 2 CFR Part 200, and (3) Chapter 252 or 262 of the Texas Local Government Code, as applicable. The Contractor shall ensure that all purchase orders and contracts include all applicable references to statutes, implementing regulations and executive

orders. In addition, the Contractor shall maintain records of all materials, property, and services as may be procured with funds provided herein.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this contract shall be in compliance with the requirements of 2 CFR 200.311-200.314 and 24 CFR 570.489(j), 570.502, 570.503(b)(7), and 570.504, as applicable.

**SECTION 8. PERFORMANCE MONITORING**

A. The Department shall monitor the performance of the Contractor against the goals stated in the Performance Statement and the milestones listed in the Project Implementation Schedule. The Department reserves the right to perform periodic on-site monitoring of the Contractor's compliance with the terms and conditions of this contract, and of the adequacy and timeliness of the Contractor's performances under this contract. After each monitoring visit, the Department shall provide the Contractor with a written report of the monitor's findings. If the monitoring reports note deficiencies in the Contractor's performances under the terms of this contract, the monitoring report shall include requirements for the timely correction of such deficiencies by the Contractor. Failure by the Contractor to take action specified in the monitoring report may be cause for suspension or termination of this contract, as provided in Section 6 of this contract, or the Department may withhold other pending grant awards.

B. If the contract ends without any project beneficiaries resulting from the use of contract funds, the Contractor shall reimburse to the Department all contract funds disbursed to the Contractor, including but not limited to funds disbursed for administration and engineering services. The Contractor shall be required to repay the funds within the timeframe specified by the Department after the receipt of notice by the Department that funds must be repaid.

**SECTION 9. SUBCONTRACTS**

A. Except for subcontracts to which the federal labor standards requirements apply, the Contractor may subcontract for performances described in this contract without obtaining the Department's prior written approval. The Contractor shall only subcontract for performances described in this contract to which the federal labor standards requirements apply after the Contractor has verified the subcontractor's eligibility under the federal System for Award Management and has followed the subcontracting requirements in the TxCDBG Project Implementation Manual. The Contractor, in subcontracting for any performances described in this contract, expressly understands that in entering into such subcontracts, the Department is in no way liable to the Contractor's subcontractor(s).

B. Selection Process

1. The Contractor shall undertake to insure that all subcontracts let in the performance of this contract shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements.
2. Documentation concerning the selection process, including evidence of competitive procurement as specified in the TxCDBG Project Implementation Manual, shall be submitted to the Department prior to drawdown of funds relating to the appropriate subcontract.
3. Executed copies of all subcontracts shall be forwarded to the Department upon request.

C. The Contractor shall ensure that the applicable prevailing wage rate is included in the advertising and solicitation of bids in accordance with the TxCDBG Project Implementation Manual.

D. Monitoring. The Contractor shall monitor all subcontracted services on a regular basis to assure contract compliance. In no event shall any provision of this Section be construed as relieving the Contractor of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all of the terms of this contract, as if such performances rendered were rendered by the Contractor. The Department's approval under this Section does not constitute adoption, ratification, or acceptance of the Contractor's or



subcontractor's performance. The Department maintains the right to insist upon the Contractor's full compliance with the terms of this contract, and by the act of approval under this Section, the Department does not waive any right of action which may exist or which may subsequently accrue to the Department under this contract.

E. Content. The Contractor shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this contract.

F. Bonding. The Contractor shall comply with the bonding requirements of Chapter 2253 of the Texas Government Code and 2 CFR 200.325, as applicable.

G. The Contractor shall maintain a retainage in the amount of five percent (5%) of each construction or rehabilitation subcontract entered into by the Contractor until the Department determines that the Federal labor standards requirements applicable to each such subcontract have been satisfied.

## **SECTION 10. LEGAL AUTHORITY**

A. The Contractor assures and guarantees that the Contractor possesses the legal authority to enter into this contract, receive funds authorized by this contract, and to perform the services the Contractor has obligated itself to perform.

B. The person or persons signing and executing this contract on behalf of the Contractor, or representing themselves as signing and executing this contract on behalf of the Contractor, do hereby warrant and guarantee that he, she or they have been duly authorized by the Contractor to execute this contract on behalf of the Contractor and to validly and legally bind the Contractor to all terms, performances, and provisions set forth.

C. The Department shall have the right to suspend or terminate this contract if there is a dispute as to the legal authority of either the Contractor or the person signing this contract to enter into this contract or to render performances. The Contractor is liable to the Department for any money it has received from the Department for performance of the provisions of this contract, if the Department has suspended or terminated this contract for reasons enumerated in this Section.

## **SECTION 11. LITIGATION AND CLAIMS**

The Contractor shall give the Department immediate notice in writing of (1) any action, including any proceeding before an administrative agency, filed against the Contractor arising out of the performance of any subcontract; and (2) any claim against the Contractor, the cost and expense of which the Contractor may be entitled to be reimbursed by the Department. Except as otherwise directed by the Department, the Contractor shall furnish immediately to the Department copies of all pertinent papers received by the Contractor with respect to such action or claim. The Contractor shall provide a notice to the Department within 30 days upon filing under any bankruptcy or financial insolvency provision of law.

## **SECTION 12. AUDIT**

A. Notwithstanding the requirements in subsection B of this Section, the Contractor shall submit within 60 days after its fiscal year end an Audit Certification Form (ACF) or a similar statement. The Contractor shall submit an ACF to the Department annually as long as the Contractor has an open contract with the Department. The ACF or statement must include information indicating whether the Contractor has or has not met the \$750,000 expenditure threshold that will require a Single Audit Report. If the Contractor did not exceed the threshold, the Contractor shall include with the ACF or statement a list of all open Federal or State contracts providing financial assistance and the corresponding activity (including all contracts with the Department and other funding agencies). Failure by the Contractor to submit a complete ACF or a similar statement as described in the audit requirements by the required due date will affect funding for all existing contracts, eligibility to apply under the TxCDBG Program, and the issuance of new contracts for funding awards.

B. If Contractor expends \$750,000 or more in Federal awards, including TxCDBG funds or other Federal financial assistance received indirectly from pass-through entities, during a fiscal year, the Contractor shall be responsible for obtaining an audit in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and other applicable federal regulations. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.

C. If the Contractor has a single audit performed, the Contractor shall submit to the Department:

- One (1) copy of the Single Audit Report;
- One (1) copy of the Department's Single Audit Report Submission Check List (See Audit Certification Form packet for check list); and
- One (1) copy of the CPA's Management Letter (if issued by CPA firm to Contractor), and Management's response to the Department.

The Contractor shall submit the audit package to the Department within 30 days after completion of the audit, but no later than nine (9) months after the end of the Contractor's audit period (i.e., after the Contractor's fiscal year end). The Contractor shall ensure that the audit report is made available for public inspection within 30 days after completion of the audit. Audits performed under subsection A of this Section are subject to review and resolution by the Department or its authorized representative. The Contractor shall ensure the Audit Report submitted includes, either in the report or as part of the cover letter, auditor and contractor contact information, including contact person, mailing address, telephone number, fax number, and e-mail address. The Contractor shall ensure the Audit Report submitted also includes the submission of the CPA Management Letter if a Management Letter was issued to the Contractor by its CPA firm. Failure by the Contractor to submit a completed single audit package as described in the audit requirements by the required due date will affect funding for all existing contracts, eligibility to apply under the TxCDBG Program, and the issuance of new contracts for funding awards.

D. The Contractor shall take such action to facilitate the performance of such audit or audits conducted pursuant to this Section and Section 7 as the Department may require of the Contractor. The Contractor shall establish written standard operating procedures and internal controls to include the timely procurement of a CPA firm to start and complete the year end single audit report if applicable, in order to comply with contractual and regulatory requirements. The Department shall not release any funds for any costs incurred by the Contractor under this contract until the Department has received a copy of any audit report required by this Section.

### **SECTION 13. ENVIRONMENTAL REVIEW REQUIREMENTS**

A. As evidenced by the execution of this contract, the Contractor understands and agrees that the Contractor is responsible for environmental review, decision-making, and action under 42 U.S.C. 5304(g), the National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4321 et seq.], and other provisions of law that further the purposes of NEPA, as specified in 24 CFR 58.5. The Contractor shall comply with the environmental review procedures set forth in 24 CFR Part 58, the TxCDBG Project Implementation Manual, and all other applicable federal, state, and local laws insofar as they apply to the performance of this contract. The Contractor must certify that it has complied with the requirements that would apply under the laws and authorities cited in 24 CFR 58.5 and must consider the criteria, standards, policies and regulations of these laws and authorities. In addition, the Contractor must comply with the requirements specified in 24 CFR 58.6.

The Contractor shall be responsible for ensuring compliance with all applicable requirements has been achieved; for issuing the public notification; for submitting the request for release of funds and related certifications, when required; and for ensuring the Environmental Review Record is complete.

## **B. Limitations on Activities Pending Clearance**

1. Neither the Contractor nor any participant in the development process, or any of their contractors, may commit TxCDBG funds on an activity or project, or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site, until the Contractor has completed the 24 CFR Part 58 environmental review process and the Department has authorized the use of grant funds or approved the Contractor's request for release of funds and related certification. In addition, until the Contractor's request for release of funds and related certification have been approved, neither the Contractor nor any participant in the development process may commit non-TxCDBG funds on or undertake an activity or project if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

2. If an activity is exempt under 24 CFR 58.34, or is categorically excluded (except in extraordinary circumstances) under 24 CFR 58.35(b), a request for release of funds is not required but the Contractor must document its determination as required in 24 CFR 58.34(b) and 58.35(d). The Contractor shall comply with the requirements and procedures in the current TxCDBG Project Implementation Manual, and shall submit to the Department a Determination of Exemption or Determination of Categorical Exclusion, as applicable, and other required environmental compliance documentation as specified in the Implementation Manual. The Contractor shall also comply with other applicable requirements, as specified in 24 CFR 58.6, regardless of whether the activity is exempt under 24 CFR 58.34 or categorically excluded under 24 CFR 58.35(b).

C. In accordance with 24 CFR 58.77(b), the Contractor shall handle inquiries and complaints from persons and agencies seeking redress in relation to environmental reviews covered by approved certifications.

## **SECTION 14. CITIZEN PARTICIPATION REQUIREMENTS**

A. The Contractor shall provide for and encourage citizen participation, particularly by low and moderate income persons who reside in slum or blighted areas and areas in which the funds provided under this contract are used, in accordance with 24 CFR 570.486 and this contract.

B. The Contractor shall hold a public hearing concerning any activities proposed to be added, deleted, or substantially changed, as determined by the Department, from the activities specified in the Application or the Performance Statement.

C. Prior to the programmatic closure of this contract, the Contractor shall hold a public hearing to review its performance under this contract.

D. For each public hearing scheduled and conducted by the Contractor under this Section, the Contractor shall comply with the TxCDBG Project Implementation Manual and the following requirements:

1. Notice of each hearing shall be published in the non-legal section of a newspaper having general circulation in the Contractor's jurisdiction at least seventy-two (72) hours prior to each scheduled hearing. The published notice shall include the date, time, and location of each hearing and the topics to be considered at each hearing. The published notice shall be printed in English and Spanish, if appropriate. The Department shall accept articles published in such newspapers which satisfy the content and timing requirements of this subsection. In addition, the Contractor shall prominently post such notices in public buildings and distributed to interested community groups.

2. If any substantial changes are being requested concerning the activities included in this contract, the public hearings shall be held after 5:00 p.m. on a weekday or on a Saturday or Sunday. The hearings must be conducted at a location convenient to potential or actual beneficiaries, with accommodation for persons with special needs.

3. When a significant number of non-English speaking residents can reasonably be expected to participate in a public hearing, the Contractor shall provide an interpreter to accommodate the needs of the non-English speaking residents.

E. Notwithstanding the provisions of Section 7 of this contract, the Contractor shall retain documentation of the public hearing notices, a list of the attendees at each hearing, and minutes of each hearing held in accordance with this section for a period of three (3) years after the termination of this contract. The Contractor shall make such records available to the public in accordance with Texas Government Code, Chapter 552.

F. Complaint Procedures. The Contractor shall maintain written citizen complaint procedures that provide a timely written response to complaints and grievances. Such procedures shall comply with the Department's requirements. The Contractor shall ensure that its citizens are aware of the location and hours at which they may obtain a copy of the written procedures and the address and phone number for submitting complaints.

## **SECTION 15. DEBARMENT**

A. By signing this contract, the Contractor certifies that it is not debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 24 CFR Part 24. Further, the Contractor is required to immediately report to the Department if it is debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 24 CFR Part 24.

B. By signing this contract, the Contractor certifies that it will not award any funds provided under this contract to any party which is debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 24 CFR Part 24. The Contractor shall verify the eligibility status of each proposed subcontractor under this contract and its principals and retain documentation in the local files.

## **SECTION 16. PERSONNEL AND PARTICIPANT CONDITIONS**

### **A. Civil Rights**

1. Compliance. The Contractor agrees to ensure that no person shall on the grounds of race, color, national origin, religion, sex, age, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity assisted in whole or in part with TxCDBG funds.

The Contractor agrees to comply with all federal, state and local civil rights laws and ordinances, including but not limited to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) as amended; Title VIII of the Civil Rights Act of 1968, commonly known as the Fair Housing Act (42 U.S.C. 3601 *et seq.*), as amended by the Fair Housing Amendments Act of 1988; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b) and 24 CFR Part 6, respectively) as amended; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*); the Architectural Barriers Act of 1968 (42 U.S.C. 4151 *et seq.*); the Age Discrimination Act of 1975 (42 U.S.C., 6101 *et seq.*); and Executive Order 11063 (Equal Opportunity in Housing) as amended by Executive Order 12259.

2. Nondiscrimination. The Contractor agrees to comply with the non-discrimination laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279, in employment and contracting opportunities.

3. Subcontract Provisions. The Contractor shall include these civil rights provisions in every subcontract or purchase order, specifically or by reference.

### **B. Employment Restrictions**

1. Prohibited Activity. The Contractor agrees that no funds provided, nor personnel employed, under this contract shall be used for: political activities or to further the election or defeat of any candidate for public office; lobbying; inherently religious activities; political patronage; and nepotism activities.

## 2. Labor Standards

- a. The Contractor agrees to comply with the requirements of the U.S. Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 3141 *et seq.*) as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*), and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract.
- b. The Contractor agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Department for review upon request.
- c. The Contractor agrees that, except with respect to the rehabilitation of residential property containing less than eight (8) units, all subcontractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the Department pertaining to such contracts and with the applicable requirements of the regulations of the U.S. Department of Labor, under 29 CFR Parts 1, 3, and 5 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Contractor of its obligation, if any, to require payment of the higher wage. The Contractor shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

## 3. "Section 3" Clause

### a. Compliance

- (1) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3).
- (2) The Contractor shall comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by the execution of this contract, the Contractor certifies that no contractual or other impediment exists that would prevent it from complying with the part 135 regulations.
- (3) The Contractor shall ensure that opportunities for training, employment (including management and administrative jobs), contracting and other economic opportunities arising in connection with the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), and other public construction which includes buildings or improvements (regardless of ownership), assisted in whole or in part with TxCDBG funds shall, to the greatest extent feasible, be given to low- and very low-income persons residing within the area in which the TxCDBG-funded project is located, and to low- and very low-income participants in other HUD programs.
- (4) The Contractor agrees to award contracts for work undertaken in connection with this contract to businesses that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.
- (5) The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 135.

(6) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(7) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

b. Notifications. The Contractor agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the labor organization or workers' representative of its commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.

c. Subcontracts. The Contractor agrees to include this section 3 clause in all solicitations and subcontracts in excess of \$100,000 executed under this contract, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor will not subcontract with any entity where it has notice or knowledge that the entity has been found in violation of the regulations in 24 CFR Part 135.

C. Conflict of Interest. The Contractor agrees to abide by the provisions of Chapter 171, Texas Local Government Code, and 24 CFR 85.36, 570.489(h), and 570.611, which include but are not limited to the following:

1. The Contractor shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by TxCDBG funds.
2. No employee, officer or agent of the Contractor shall participate in the selection, or in the award, or administration of, a contract supported by TxCDBG funds if a conflict of interest, real or apparent, would be involved.
3. No covered persons who exercise or have exercised any functions or responsibilities with respect to TxCDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the TxCDBG-assisted activity, or with respect to the proceeds from the TxCDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Department, the Contractor, or any designated public agency.
4. The Contractor shall include these conflict of interest provisions in all subcontracts.

#### D. Lobbying

No funds provided under this contract shall be used to pay any person for communicating with a member of the legislative branch of state government (which includes a member-elect, a candidate for, or an officer or employee of the legislature or a legislative committee), a member of the executive branch of state government (which includes an officer, an officer-elect, a candidate for, or an employee of any state agency, department, or office in

the executive branch), a Member of Congress, an officer or employee of Congress or a federal agency, or an employee of a Member of Congress for the purpose of influencing or attempting to influence legislation or administrative action.

**E. Religious Activities and Faith-Based Organizations**

1. The Contractor shall not discriminate against an organization on the basis of the organization's religious character or affiliation. The Contractor shall comply with the regulations promulgated by HUD on faith-based activities at 24 CFR 570.200(j).

2. The Contractor agrees that funds provided under this contract will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization. Funds made available under this contract may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. Where a structure is used for both eligible and inherently religious activities, funds made available under this contract may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to funds provided under this contract.

**SECTION 17. FRAUD, ABUSE, AND MISMANAGEMENT**

The Contractor must take steps, as directed by the Department, to avoid or mitigate occurrences of fraud, abuse, and mismanagement especially with respect to the financial management of this contract and procurements made under this contract. Upon the discovery of such alleged or suspected fraud, the Contractor shall immediately notify the Department and appropriate law enforcement authorities, if necessary, of the theft of any assets provided for under this contract, malfeasance, abuse of power or authority, kickbacks, or the embezzlement or loss of any funds under this contract.

**SECTION 18. EFFECTIVE DATE**

This contract is not effective unless signed by the Commissioner of the Department or by his authorized designee.

**SECTION 19. WAIVER**

Any right or remedy provided for in this contract shall not preclude the exercise of any other right or remedy under this contract or under any provision of law, nor shall any action taken by the Department in the exercise of any right or remedy be deemed a waiver of any other rights or remedies. The Department's failure to act with respect to a breach by the Contractor does not waive its right to act with respect to subsequent or similar breaches. The failure of the Department to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

**SECTION 20. ORAL AND WRITTEN AGREEMENTS**

A. All oral and written agreements between the parties to this contract relating to the subject matter of this contract that were made prior to the execution of this contract have been reduced to writing and are contained in this contract.

B. The attachments enumerated and denominated below are hereby made a part of this contract, and constitute promised performances by the Contractor in accordance with Section 4 of this contract:

1. Exhibit A, Performance Statement, 2 Pages
2. Exhibit B, Budget, 1 Page
3. Exhibit C, Project Implementation Schedule, 1 Page
4. Exhibit D, Special Conditions, 1 Page
5. Exhibit E, Applicable Laws and Regulations, 2 Pages
6. Exhibit F, Certifications, 2 Pages

**SECTION 21. VENUE**

For purposes of litigation pursuant to this contract, venue shall lie in Travis County, Texas.

**Signed:**



\_\_\_\_\_  
Rick Lewis, County Judge  
County of Montague

Oct. 12, 2015  
\_\_\_\_\_  
Date



Approved and accepted on behalf of the Texas Department of Agriculture.

\_\_\_\_\_  
Jason Fearneyhough, Deputy Commissioner  
Texas Department of Agriculture

\_\_\_\_\_  
Date



**EXHIBIT A**

**PERFORMANCE STATEMENT**

**COUNTY OF MONTAGUE**

All activities funded with TxCDBG funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income (LMI) persons, aid in the prevention or elimination of slums or blight, or meet community development needs having a particular urgency.

Contractor shall carry out the following activities in the target area identified in the Application. The Contractor shall ensure that the amount of funds expended for each activity described does not exceed the amount specified for such activity in the Budget.

**CURRENT NEED**

The unincorporated community of Montague, located in Montague County, has streets that are aged and deteriorated, resulting in limited access and a potential threat to public safety.

The Contractor certifies that the activity (ies) carried out under this contract will meet the National Objective of benefitting LMI persons with at least 51% of the beneficiaries qualifying as LMI.

**ACTIVITIES**

**Street Improvements** Contractor shall reconstruct streets in the unincorporated community of Montague to improve access and to remove a threat to public safety. Contractor shall reconstruct approximately twenty-four thousand linear feet (24,000 l.f.) of street utilizing a limestone stabilized base, HMAC pavement, culverts, and all associated appurtenances. Construction shall take place in the following locations:

<b>STREET</b>	<b>FROM</b>	<b>TO</b>
Salt St	FM 455	FM 1806
Morris St	FM 455	Mill St
Hall St	Sand St	FM 1806
Grand St	Wall St	Dead-end to the south
Union St	FM 455	Highway 59
Border St	FM 455	Dead-end to the north
McGee Rd	FM 1806	Highway 175
Sand St	Salt St	Border St
Davis St	Hall St	Union St
Clay St	Highway 59	Dead-end to the west
Main St	S Bluff St	Dead-end to the east
S Bluff St	Main St	Franklin St
N Bluff St	FM 1806	Mill St
Franklin St	Salt St	Dead-end to the east
Jefferson St	Bluff St	McGee Rd
Jefferson St	Highway 175	Grand St
Mill St	Highway 175	Grand St
Mill St	Bluff St	McGee Rd
Chambers St	McGee Rd	Grand St
Wall St	McGee Rd	Grand St

These activities shall benefit two hundred three (203) persons, of which one hundred eight-nine (189) or ninety-three percent (93%) are of low- to moderate-income.

**Engineering**

Contractor shall ensure that the amount of Department funds expended for all eligible project-related engineering services, including preliminary and final design plans and specifications, all interim and final inspections, and all special services does not exceed the amount specified for engineering in the Budget.

**General Administration**

Contractor shall ensure that the amount of Department funds expended for all eligible project-related administration activities, including the required annual program compliance and fiscal audit does not exceed the amount specified for administration in the Budget.

**EXHIBIT B**  
**BUDGET**  
**COUNTY OF MONTAGUE**

<u>Project Activities</u>		<u>Contract Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
03K	Street Improvements - Total	\$247,500	\$27,500	\$275,000
	Street Improvements-Construction	\$209,950	\$27,500 <sup>1,2</sup>	\$237,450
	Street Improvements-Engineering	\$37,550	\$0	\$37,550
21A	General Program Administration - Total	\$27,500	\$0	\$27,500
<b>TOTALS</b>		<b>\$275,000</b>	<b>\$27,500</b>	<b>\$302,500</b>

Source of Other Funds:

- 1 – Montague County, In-kind (force account - \$13,750)
- 2 – City of Nocona, In-kind (force account - \$13,750)

**EXHIBIT C**  
**PROJECT IMPLEMENTATION SCHEDULE**  
**COUNTY OF MONTAGUE**

CONTRACT START DATE  
 October 15, 2015

CONTRACT END DATE  
 October 14, 2017

**If Contractor fails to meet milestones in accordance with this schedule, the Department will withhold payments to Contractor until such milestone has been completed.**

Activity To Be Completed by Date Specified:		<b>Milestone Date</b>
Procurement of Professional Services Completed	Month 2	12/15/2015
4-Month Conference Call / Meeting Completed <sup>(1)</sup>	Month 4	2/15/2016
Plans and Specifications Completed	Month 6	4/15/2016
Plans and Specifications Submitted for Approval (as required <sup>1</sup> )	Month 6	4/15/2016
Environmental Review Completed	Month 6	4/15/2016
Clearance of Pre-Construction Special Conditions	Month 8	6/15/2016
Wage Rate 10-Day Confirmation	Month 8	6/15/2016
Construction Contract Awarded & Executed	Month 9	7/15/2016
Construction - 50% TxCDBG project complete	Month 14	12/15/2016
Construction - 75% TxCDBG project complete	Month 17	3/15/2017
Construction - 90% TxCDBG project complete	Month 19	5/15/2017
Construction & Final Inspections Completed	Month 20	6/15/2017
End Date of Contract	Month 24	10/14/2017
Close-out documents submitted to Department (60 days after End Date)	Month 26	12/13/2017

<sup>(1)</sup> See TxCDBG Project Implementation Manual

**EXHIBIT D**  
**COMMUNITY DEVELOPMENT FUND**  
**SPECIAL CONDITIONS**  
**COUNTY OF MONTAGUE**

A. Special Conditions for Release of Construction Funds

Funds for construction activities under this contract will not be released to the Contractor by the Department until the following special conditions for release of funds are met. These special conditions must be satisfactorily completed no later than twelve (12) months after the contract start date. In accordance with Section 6 of the contract, the Department may terminate this contract twelve (12) months after the commencement date specified in Section 2 if these special conditions are not met by such date. Contractor shall submit to the Department:

1. Documentation evidencing Contractor's completion of its responsibilities for environmental review and decision-making pertaining to the project as required by Section 13 (Environmental Review) of this contract, and its compliance with NEPA and other provisions of law that further the purposes of NEPA, as specified in 24 CFR 58.5.
2. Certification that Contractor has received all required pre-construction permits or approvals from the appropriate federal, state, or local entity or regulatory agency prior to beginning construction activities under this contract.
3. Other documentation required by the Department for release of construction funds as specified in Chapter 2 of the TxCDBG Project Implementation Manual.

## EXHIBIT E

### APPLICABLE LAWS AND REGULATIONS

The Contractor shall comply with the HCD Act; federal regulations specified in this contract; and with all other federal, state, and local laws and regulations insofar as they apply to the performance of this contract, including but not limited to the laws and regulations specified in this Exhibit.

#### I. LEAD-BASED PAINT

The Contractor agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to the Lead-Based Paint Regulations at 24 CFR 570.608 and 24 CFR Part 35.

#### II. ENVIRONMENTAL LAW AND AUTHORITIES

A. The Council on Environmental Quality regulations contained in 40 CFR parts 1500 through 1508

##### B. Historic Properties

1. The National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 *et seq.*), particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2)
2. Executive Order 11593, Protection and Enhancement of the Cultural Environment, 36 FR 8921 (May 13, 1971)
3. Federal historic preservation regulations, at 36 CFR part 800 with respect to HUD programs
4. The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 *et seq.*), particularly section 3 (16 U.S.C. 469a-1)

##### C. Floodplain management and wetland protection

1. Executive Order 11988, Floodplain Management, 42 FR 26951 (May 24, 1977), as interpreted in HUD regulations at 24 CFR part 55, particularly section 2(a) of the order
2. Executive Order 11990, Protection of Wetlands, 42 FR 26961 (May 24, 1977)

D. Coastal Zone Management. The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), as amended, particularly sections 307(c) and (d) (16 U.S.C. 1456(c) and (d))

##### E. Water systems

1. The Safe Drinking Water Act of 1974 (42 U.S.C. 300f *et seq.*) as amended; particularly section 1424(e) (42 U.S.C. 300h-3(e))
2. Sole Source Aquifers (Environmental Protection Agency-40 CFR part 149)

F. Endangered species. The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) as amended, particularly section 7 (16 U.S.C. 1536).

G. Wild and scenic rivers. The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 *et seq.*) as amended, particularly sections 7(b) and (c) (16 U.S.C. 1278(b) and (c)).

##### H. Air quality

1. The Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended, particularly sections 176(c) and (d) (42 U.S.C. 7506(c) and (d))
2. Determining Conformity of General Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency-40 CFR parts 6, 51, and 93)

I. Farmland protection

1. Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 *et seq.*) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202)
2. Farmland Protection Policy Act regulations (7 CFR part 658)

J. HUD environmental standards

1. Applicable criteria and standards specified in HUD environmental regulations (24 CFR part 51) other than the runway clear zone and clear zone notification requirement in 24 CFR 51.303(a)(3)
2. It is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.
3. The environmental review of multifamily housing with five or more dwelling units (including leasing), or non-residential property, must include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by any of the hazards listed in paragraph J.2 of this section.
4. Particular attention should be given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes.

- K. Environmental justice for low income and minority populations. Executive Order 12898 of February 11, 1994 (59 FR 7629).

III. ACQUISITION/RELOCATION

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. Sec. 4601 *et seq.*, 24 CFR Part 42, and 24 CFR 570.606.

**EXHIBIT F**  
**CERTIFICATIONS**

WITH RESPECT TO THE EXPENDITURE OF FUNDS PROVIDED UNDER THIS CONTRACT BY THE COUNTY OF MONTAGUE, THAT;

- (1) IT WILL MINIMIZE DISPLACEMENT OF PERSONS AS A RESULT OF ACTIVITIES ASSISTED WITH SUCH FUNDS;
- (2) THE PROGRAM WILL BE CONDUCTED AND ADMINISTERED IN CONFORMITY WITH THE CIVIL RIGHTS ACT OF 1964 (42 U.S.C. 1981 et seq.) AND THE FAIR HOUSING ACT (42 U.S.C. 3601 et seq.), AND THAT IT WILL AFFIRMATIVELY FURTHER FAIR HOUSING, AS SPECIFIED BY THE DEPARTMENT;
- (3) IT WILL PROVIDE FOR OPPORTUNITIES FOR CITIZEN PARTICIPATION, HEARINGS AND ACCESS TO INFORMATION WITH RESPECT TO ITS COMMUNITY DEVELOPMENT PROGRAMS, AS SPECIFIED BY THE DEPARTMENT;
- (4) IT WILL NOT ATTEMPT TO RECOVER ANY CAPITAL COSTS OF PUBLIC IMPROVEMENTS ASSISTED IN WHOLE OR IN PART WITH SUCH FUNDS BY ASSESSING ANY AMOUNT AGAINST PROPERTIES OWNED AND OCCUPIED BY PERSONS OF LOW AND MODERATE INCOME, INCLUDING ANY FEE CHARGED OR ASSESSMENT MADE AS A CONDITION OF OBTAINING ACCESS TO SUCH PUBLIC IMPROVEMENTS UNLESS (A) SUCH FUNDS ARE USED TO PAY THE PROPORTION OF SUCH FEE OR ASSESSMENT THAT RELATED TO THE CAPITAL COSTS OF SUCH PUBLIC IMPROVEMENTS THAT ARE FINANCED FROM REVENUE SOURCES OTHER THAN SUCH FUNDS; OR (B) FOR PURPOSES OF ASSESSING ANY AMOUNT AGAINST PROPERTIES OWNED AND OCCUPIED BY PERSONS OF MODERATE INCOME, THE CONTRACTOR CERTIFIES THAT IT LACKS SUFFICIENT FUNDS UNDER THIS CONTRACT TO COMPLY WITH THE REQUIREMENTS OF CLAUSE (A).
- (5) IN THE EVENT THAT DISPLACEMENT OF RESIDENTIAL DWELLINGS WILL OCCUR IN CONNECTION WITH A PROJECT ASSISTED WITH TxCDBG FUNDS, IT WILL FOLLOW A RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN, AS SPECIFIED BY THE DEPARTMENT.
- (6) IT SHALL ADOPT AND ENFORCE A POLICY PROHIBITING THE USE OF EXCESSIVE FORCE BY LAW ENFORCEMENT AGENCIES WITHIN ITS JURISDICTION AGAINST ANY INDIVIDUAL ENGAGED IN NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS AND A POLICY OF ENFORCING APPLICABLE STATE AND LOCAL LAWS AGAINST PHYSICALLY BARRING ENTRANCE TO OR EXIT FROM A FACILITY OR LOCATION WHICH IS THE SUBJECT OF SUCH NON-VIOLENT CIVIL RIGHTS DEMONSTRATION WITHIN ITS JURISDICTION.



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

COUNTY OF MONTAGUE

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 A MATERIAL REPRESENTATION OF FACT 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 31 U.S.C. 1352. 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.