



**TEXAS DEPARTMENT OF AGRICULTURE  
GRANT AGREEMENT**

<b>GRANT RECIPIENT</b>	El Paso County		
<b>GRANT PROGRAM</b>	Grant Agricultural Development - 2025		
<b>PROJECT TITLE</b>	El Paso County Red Flour Beetle Pecan Shell Removal		
<b>CFDA NUMBER</b>	N/A - State Funded		
<b>PERFORMANCE PERIOD/ AGREEMENT TERM</b>	1/1/2025	through	8/31/2025
<b>AUTHORITY AND PURPOSE</b>			
<p>Chapter 12 of the Texas Agriculture Code ("Code") provides that the Texas Department of Agriculture ("Department") shall encourage the proper development and promotion of agriculture and other industries that grow, process, or produce products in this state, and may enter into cooperative agreements with private entities and local, state, federal and other governmental entities to carry out its duties under the Code.</p> <p>Grant Recipient has submitted a request for assistance under the above-referenced grant program "Grant Program" hereinafter referred to as the "Application" and incorporated by reference into this Grant Agreement "Agreement" and Grant Recipient (collectively, the "Parties" along with the terms and conditions under which the Department will provide Grant Program funds to I tcvp"Tgekrkqpv"wpfgt"vjkucyctf" I tcvp"Tgekrkqpv"ci tggv"vq"cf o kpkuvgt"vjg"rtqlgev"cu"fguetkdgf"kp"vjg"Cr rnkecvkqp"cpf"kp"vjk" Agreement "Project" and the Department agrees to fund the Project up to the Grant Amount reflected below.</p>			
<b>PROJECT DESCRIPTION</b>			
<p>The Agricultural Development: Biosecurity Mitigation Response Program (BMRP) Pilot Program, which is being developed to protect the integrity, reliability, sustainability, and profitability of the Texas agricultural system against threats from pests, diseases, contaminants, and disasters.</p> <p>Grant Recipient agrees to carry out the Project and complete all approved activities in accordance with the terms of this Agreement, including the following exhibits, which are attached hereto and incorporated by reference into this Agreement for all rwtrqugu&lt;"Rgthqt o cpeg"Rncp"cpf"Cyctf"Urgekhke"Eqpfkqpu"*Gzjkdv"C+."Rtqlgev"Dwfi gv"*Gzjkdv"D+." I gpgtcn"Vgt ou"cpf" Conditions (Exhibit C), and Certifications and Assurances (Exhibit D). Grant Recipient further agrees to comply with all statutes and regulations applicable to this award and such regulations and procedures as the Department may prescribe.</p>			
<b>TOTAL GRANT AMOUNT NOT TO EXCEED</b>	\$30,000.00		
<b>MATCH AMOUNT (if applicable)</b>	\$0.00		

GRANTEE	GRANTOR
<b>El Paso County</b>	<b>TEXAS DEPARTMENT OF AGRICULTURE Trade and Business Development</b>
500 E San Antonio Ave L1 El Paso, Texas, 79901-2419	1700 N Congress Ave Cwuvkp."VZ"9:923
<p><b>AUTHORIZED SIGNATORY/AUTHORITY TO BIND</b></p> <p>Each person signing the Agreement certifies that he or she is authorized by Grantor or Grant Recipient to sign and execute the Agreement and to bind such party to its terms, performances, and conditions.</p>	
PRINTED NAME AND TITLE OF PERSON SIGNING:	PRINTED NAME AND TITLE OF PERSON SIGNING:
DATE SIGNED:	DATE SIGNED:

**Exhibit A**

**Performance Plan and Award Specific Conditions**

**A. Activities/Eligible Use of Funds**

1. As a condition of receiving this award, Grant Recipient shall administer the Project funded under this Agreement and complete all activities described in this Exhibit A in accordance with the Project Schedule and performance goals outlined herein. Grant Recipient shall perform and complete all work and activities in a manner satisfactory to the Department and consistent with the terms of conditions of this Agreement and applicable statutes and regulations.

2. Grant Recipient will undertake the following activities and provide the following levels of program services:

El Paso County, a significant pecan-producing region, is under infestation with the Red Flour Beetle. This beetle infests grain and hulled crop, including cereals and legumes. Pecan shells are ideal environments for this pest. While there are some economic uses for the shells, most shells are simply stockpiled. The red beetle, however, has infested these shells and have established a habitat for reproduction and further spread. This grant will support the El Paso County in collecting, transporting, and properly disposing of the large quantity of shells away from population centers and locations where there is habitat and material to reproduce. This project will benefit the communities in El Paso County's lower valley agricultural region where homes and businesses have been overrun with invading beetles.

**B. Prohibited Activities**

Grant Recipient shall not charge to this award the costs of ineligible activities and from using grant funds or personnel employed in the administration of activities under this Agreement for political activities, inherently religious activities, or lobbying.

**C. General Administration**

1. Grant Recipient will obtain and maintain the necessary records documenting its use of grant funds under this award and its supervision and administration of the Project pursuant to all applicable laws, regulations, and other financial and other administrative aspects involved in performing the Project within the Project timeline.

2. Grant Recipient understands that failure to comply with the established administrative responsibilities may lead to: (a) a cancellation of the award; (b) loss of all or part of unexpended funds; and/or (c) an obligation to repay funds disbursed to Grant Recipient under this award.

3. Grant Recipient will also comply with the administrative requirements identified elsewhere in this Agreement.

**D. Special Conditions**

Grant Recipient agrees and assures the Department that it will comply with all the special provisions and requirements of the award described herein. The general terms and conditions contained in Exhibit C will apply as indicated unless there are statutory, regulatory, or award-specific requirements to the contrary (as specified in this Exhibit A).

1. Tgk o dwtug o gpv" Fqew o gpvcvkqp0"" I tcpv" Tgekrkgpv" ujcnn" uwd o kv" vq" vjg" Fgrctv o gpv. "hqt" gce j" tgk o dwtug o gpv" tgs wguv. ' a completed Payment Request on a form designated by the Department, including the following information, if applicable:

- a. Personnel Costs. Back-up documentation for salary/wages and fringe benefits must be provided that detail personnel time billed directly to the program.
- b. Vtcxgn" Equvu0"" Vtcxgn" equvu" ctg" cny cdng" hqt" vtcpurqtvcvkqp. "nqf i kpi" cpf" tgnvcgf" gzrgpug" kvg o u" kpewttgf" d{ " Grant Recipient while traveling on official business directly related to the Project. Reimbursement for travel is limited to the federal Domestic Per Diem Rates, which can be found on the U.S. General Services Cf o kpkuvtcvkqp\* I UC+ " y gdukvg0"" Hqt" nqecvkqpu" pqv" nkuvgf" qp" vjg" I UC" ukvg. "vjg" tcvg" yknn" dg" nk o kvgf" vq" vtcxgn" tgk o dwtug o gpv" tcvgu" cu" ug" d{ "vjg" Vgzcu" Eq o rvtqngt" qh" Rwdnke" Ceeqwpvu0"" Vjg" Fgrctv o gpv" yknn" cff tguu" gzegrvkqpu" qp" c" ecug/d{ /ecug" dcuku0"" Eqrkgu" qh" tgekrvu" hqt" cnn" gzrgp fkvwtgu. "tgi ctfnguu" qh" vjg" c o qwpv. " o wuv" accompany the request o kpenwfkpi. "dww" pqv" nk o kvgf" vq. "ckthctg. "nqf i kpi. "vtcpurqtvcvkqp. "kpekfgpvcnu. "gve0"" C" dtkgh" lwvkhkecvkqp" hqt" vjg" vtcxgn" o wuv" cnuq" dg" kpenwfgf0"" Ogcnu. "qt" cp{ "hqqf" tgnvcgf" kvg o u" tgnvcgf" vq" vtcxgn" and or per diem expenses are not an allowable cost and will not be approved for reimbursement.
- c. Supplies and Other Operating Costs. Copies of vendor invoices for purchases of \$500.00 or more and an itemized list of all invoices for purchases of less than \$500.00 must accompany the Payment Request. All backup documentation, including original copies of vendor invoices, must be made available to the Department upon request during any audit conducted at Grant Recipient's premises under the Agreement.
- d. Indirect Costs. The Department's maximum obligation also includes indirect costs of up to ten percent (10%) of actual costs. The inclusion of these indirect costs shall not change the Department's maximum obligation under this Agreement. In order to be reimbursed for indirect costs, Grant Recipient must provide an Indirect Cost Plan to the Department for approval.

2. Reporting Requirements.

- a. Swctvgtn{ "Tgrqtvu0"" Rgthqt o cpeg" tgrqtvu" ujcnn" dg" uwd o kvvgf" qp" c" hqt o " rtguetkdgf" d{ "vjg" Fgrctv o gpv0" Vjgug" tgrqtvu" ujcnn" fgvckn" vjg" ceeq o rnku j o gpvu" qh" vjg" rtqlgev" qdlgev xgu" hqt" vjg" rtgxkqwu" vjg" tgg/ o qp vj" rgtkqf0"

Unless otherwise agreed to by the parties in writing, quarterly reports must be submitted no later than thirty (30) days after the end of the following reporting periods:

- É" September 1 thru November 30;
- É" December 1 thru February 28;
- É" March 1 thru May 31; and
- É" June 1 thru August 31.

- b. Final Performance Report. The final report shall follow the format prescribed by the Department. The Final Performance Report is due thirty days after the expiration or termination of this Agreement, whichever occurs first.
- c. Hcknwtg" vq" Eq o rn{ " ykvj" "Tgrqtvkpi" Tgswktg o gpvu0"" Hcknwtg" qh" I tcpv" Tgekrkgpv" vq" eq o rn{ " ykvj" cp{ "qh" vjg" reporting requirements in this Agreement may result in the revocation of a grant, withholding of request(s) for reimbursement, requiring the repayment of grant funds disbursed to Grant Recipient, and/or Grant Recipient's ineligibility for future Grant Program funds.

3. Payment Requests.

- a. Grant Recipient must submit payment requests in a manner as prescribed by the Department.
- b. The final payment request must be received no later than sixty (60) days following the completion of the Project or after the expiration or termination of the Agreement, whichever occurs first.

4. Grant Recipient must be current. Grant funds shall be paid according to the following schedule:

- a. Up to 90% of the total grant award may be disbursed provided the work for which payment is requested has been completed and proper documentation to substantiate the request has been submitted pursuant to clause D.1 of this Exhibit A.
- b. The remaining 10% may only be disbursed if the disposition of all property purchased under the Agreement is submitted utilizing the form designated by Grantor (if applicable).

5. Grant Recipient shall provide to the Department as follows:

- a. Project Manager or Fiscal Officer shall provide to the Department an Annual Inventory of Non-Expendable Personal Property detailing the items, location and equipment.
- b. Title to all property purchased under the Agreement shall be vested in Grant Recipient subject to the Agreement.
- c. Personal Property Used in Accordance with the Agreement. During the Agreement Term, such personal property shall be used in accordance with the Agreement to accomplish the public purposes served by the Grant Project.
- d. Maintenance of Property Records. Grant Recipient must maintain property records that include a description of the property, a serial number or other identification number, the source of property, who holds the title, the acquisition date, and cost of the property, percentage of state participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property, on a form prescribed by the Department.
- e. Grant Recipient shall maintain property records at least once every two (2) years, or prior to termination of the Agreement, as applicable.
- f. Grant Recipient shall continue to use any Non-Expendable Personal Property acquired under the Agreement in the Project as long as the property is necessary for the Project.

**Exhibit B**

**Budget**

**A. Approved Budget"**

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40"Vjg" Fgrctv o gpv" o c{"tgs wktg" c" o qtg" fgvc kngf" dwf igv" dtgcmf qyp" vjcp" vjg" qpg" eqpvckpgf" jgtgkp."cpf" I tcpv" Tgekrkpv"ujcnn" rtqxf" uwej" uwr rng o gpvct{" dwf igv" kphqt o cvkqp" kp" c" vk o gn{" hcu jkqp" kp" vjg" hqt o" cpf" eqpvgpv" rtguetkdgf" d{" vjg" Fgrctv o gpv0"

50" Cp{" c o gpf o gpvu" vq" vjg" Rtqlgev" dwf igv" o wuv" dg" cr rtqxf" kp" y tkvpi" d{" dqvj" vjg" Fgrctv o gpv" cpf" I tcpv" Tgekrkpv0"

<b>Cost Category</b>	<b>Awarded Amount</b>	<b>Match Amount</b>
Personnel	\$0.00	\$0.00
Fringe Benefits	\$0.00	\$0.00
Travel	\$0.00	\$0.00
Equipment	\$0.00	\$0.00
Supplies	\$0.00	\$0.00
Contractual	\$30,000.00	\$0.00
Other	\$0.00	\$0.00
Indirect Costs	\$0.00	\$0.00
<b>Total</b>	<b>\$30,000.00</b>	<b>\$0.00</b>



C. The Department shall pay to Grant Recipient funds available under this Agreement based upon information submitted by Grant Recipient for allowable costs permitted under the Agreement and consistent with Exhibit B, disbursement of any such payment until the issues of concern are resolved and the Department has reviewed and request is not supported by sufficient documentation.

D. The Department will not reimburse Grant Recipient for any costs incurred either prior to the effective date of the Agreement or after the termination or expiration date of the Agreement, unless otherwise stated herein or agreed to in writing by the Department.

E. The Department will not make final payment to Grant Recipient until all reports, unexpended program income and other deliverables required under the Agreement have been submitted to the Department in acceptable form.

**SECTION 5. MATCHING AND COST SHARING REQUIREMENTS**

Grant Recipient shall demonstrate to the satisfaction of the Department that it has complied with all matching and cost sharing requirements, if any, of this Agreement. Requests for reimbursement will only be paid after Grant Recipient provides documented minimum expenditure of matching funds in an amount proportionate to the reimbursement request.

**SECTION 6. FINANCIAL MANAGEMENT**

A. Grant Recipient shall maintain a financial management system that meets the standards for fund control and records that fully disclose the amount and disposition by Grant Recipient of the proceeds of the award, the total cost of the Project in connection with which the award is given or used, the amount or nature of that portion of the cost failure to comply with these requirements may result in termination of the award.

B. Grant Recipient shall maintain a financial management system that provides:

- (1) Accurate, current and complete disclosure of all financial activities related to this Agreement, in accordance with Generally Accepted Accounting Principles;
- (2) Records that clearly identify the source and application of all funds used for the purposes described in the Agreement awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and program income;
- (3) Grant Recipient have in place a system for safeguarding all such assets and shall assure that such assets are used solely for authorized purposes; and
- (4) Grant Recipient shall ensure that the funds provided by the Department to Grant Recipient under this Agreement are not misappropriated or misdirected to any other account, need, project, line-item, or unrelated activity.

C. Grant Recipient shall ensure that the funds provided by the Department to Grant Recipient under this Agreement are not misappropriated or misdirected to any other account, need, project, line-item, or unrelated activity.

**SECTION 7. PROCUREMENT STANDARDS**

Grant Recipient shall procure property, supplies, equipment, and services with funds provided under this Agreement in a manner consistent with (1) current Grant Program policy, (2) federal, state and local laws, and (3) the TxGMS, as applicable. The Department assumes no responsibility for contractual and administrative matters associated with Grant Recipient's procurement of such property, supplies, equipment, and services. No provider of property, supplies, equipment, and services to Grant Recipient shall be deemed a third-party beneficiary of this Agreement.

**SECTION 8. PROPERTY MANAGEMENT STANDARDS**

Grant Recipient shall use and dispose of property in a manner consistent with the TxGMS, if such property has been furnished by the Department or acquired or improved in whole or in part with federal or state funds or if the cost of such property was charged to a project supported by federal or state funds.

**SECTION 9. REPORTING REQUIREMENTS**

A. Grant Recipient shall submit timely, complete, and accurate progress, performance, and financial reports in the

B. The final report shall include a comparison of actual expenditures with the budget line items shown in Exhibit B, Project Budget.

C. Extensions to the reporting due dates prescribed in Exhibit A, Award Specific Conditions may be granted by the Department upon receipt of a written request from Grant Recipient.

D. the revocation of a grant; (ii) withholding of current or future payment requests submitted by the Grant Recipient; (iii) requiring repayment of grant funds previously disbursed to Grant Recipient; (iv) a determination that Grant Recipient is ineligible for future Grant Program funds; and/or initiate other remedies for noncompliance as appropriate and permitted under this Agreement or the TxGMS.

**SECTION 10. RECORD RETENTION**

A. Grant Recipient shall maintain and retain all records relating to the performance of the grant award including supporting fiscal documents adequate to ensure that claims for Project Funds are in accordance with applicable State of Texas requirements. These records will be maintained and retained by Grant Recipient for a period of four (4) years after the grant expiration date or until all audit, claim, and litigation matters are resolved, whichever is later.

B. The preceding record retention requirement is subject to the following exception: Records pertaining to nonexpendable property acquired with award funds shall be retained for three years after final disposition of such property.

C. The Department reserves the right to direct Grant Recipient to retain documents for a longer period of time or transfer certain records to Department custody when it is determined the records possess longer term retention value.

D. Grant Recipient shall include the substance of this Section 10 in all subawards and subcontracts.

**SECTION 11. INSPECTIONS AND MONITORING**

A. Grant Recipient shall monitor the performance of all activities undertaken pursuant to this Agreement to assure that time schedules are being met, projected work and tasks are being accomplished and other performance goals are being met. The Grant Recipient shall maintain adequate financial records, and refunding disallowed receipts and expenditures, cash management, maintaining adequate financial records, and refunding disallowed expenditures.

B. Grant Recipient agrees to notify the Department in writing of any circumstances or conditions that may negatively impact the progress of the project. Such circumstances or conditions include but are not limited to circumstances and problems that prevent the meeting of time schedules and goals or other performance goals. The Grant Recipient shall include a statement of the action taken or contemplated by Grant Recipient to correct the problems and the time frame for such action.

C. Grant Recipient's progress will be monitored periodically by the Department to ensure that the Project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring will involve the review and analysis of the financial, programmatic, performance and administrative issues relative to each Grant Program and will identify areas where technical assistance and other support may be needed.

D. The Department may, at any time, require that Grant Recipient provide such other information as is deemed necessary by the Department to enable it to fully monitor the Agreement.

E. The Department may issue management decisions and may consider taking enforcement actions if noncompliance with the terms and conditions of the Agreement is identified. The Department may take timely and appropriate action on all deficiencies pertaining to the award detected through audits, on-site reviews, and monitoring visits. Such action may include the withholding or suspension of funds under the Agreement, termination of the award, or any other remedy which may be available to the Department.

F. Grant Recipient understands and agrees that it shall repay funds disbursed to Grant Recipient under this Agreement for disallowed costs identified through audits, inspections, or monitoring reviews, and the repayment of such costs shall be determined to not be allowed in accordance with the applicable cost principles or other conditions contained in this Agreement.

**SECTION 12. AUDITS, INVESTIGATIONS AND ACCESS TO RECORDS**

A. Grant Recipient agrees to make available to the Department, the Texas State Auditor's Office, any other appropriate unit or agency of the State of Texas, and any of their duly authorized representatives, for purposes of audit and examination, all accounting records, books, documents, files and other papers that are pertinent to the award as may be necessary to facilitate the review and audit of Grant Recipient's operations, administration, receipt and use of hwpfu\wpfgt\vjku\cyctf0\Uwej\cwvjqtqv{"vq\cwfkv\cpf"tkij\vjvq\ceeguu\ujcnn\eqpvkpwg\cu\hqp\i\cu\vjg\tgeqtfu\ctg\tgvckpgf"d\I tcpv\Tgekrkgrp\0\ I tcpv\Tgekrkgrp\ci\tggu\vr\eqqr\gtcv\g\hwnn{"ykvj\uwej\ci\gpekgu\kp\vjg\eqpfwev\qh\vjg\cwfkv\qt" kpxguk\icvkqp\0\ I tcpv\Tgekrkgrp\ujcnn\gpuwtg\vjcv\vjg\uwduvpeg\qh\vjku\encwug\eqpegt\kpi\vjg\cwvjqtqv{"vq\cwfkv\hwpfu\cpf" the requirement to cooperate is included in all subawards and contracts it awards.

B. When reasonable and practical to do so, the Department shall provide prior notice of all visits entailing inspections, audits and other reviews. However, the Department retains the right to make unannounced visits, inspections and audits as deemed necessary.

C. All audit reports shall be promptly delivered to Grant Recipient for review. Grant Recipient shall cooperate with the Department to assure timely and appropriate resolution of audit findings and recommendations.

D. When audits disclose overpayments to Grant Recipient, the Department may, at its option, either require Grant Recipient to repay the overpayment or deduct the amount of overpayment from monies due the Grant Recipient under vjg\Citggogpv0\Cp{"qxgtrc{ogpvu\pqv\tgrckf\vtqwi\j\cevwcn\tgrc{ogpv\qt"d{"fgfwevkqp\ykvj\kp\vjktv{"\*52+\fc{"u\qh" pqvkeg\vr\ I tcpv\Tgekrkgrp\ujcnn\dg\ejct\igf\uk\orng\kpvgtguv\cv\vgp\rgtegpv\*32 '+'rgt\cppw\o\0\ Vjg\vjktv{"\*52+\fc{"pqvkeg" of repayment or deduction shall commence upon sending, either by United States Postal Service or electronic mail, of written notice to Grant Recipient.

**SECTION 13. AUDIT REQUIREMENTS**

A. If Grant Recipient expends more than \$750,000 during its fiscal year in state awards, Grant Recipient shall have either a financial audit or program-specific audit conducted for that year in accordance with applicable state and local laws, regulations and the TxGMS. If Grant Recipient is exempt from state audit requirements, Grant Recipient shall keep its records available for review or audit by appropriate officials of the Department and the State Auditor's Office.

B. All audits shall be conducted in accordance with the Generally Accepted Government Auditing Standards.

C. If Grant Recipient has a financial audit performed during the term of this Agreement, Grant Recipient shall provide to the Department, upon request, information about the audit or information regarding where the audit report can be publicly viewed, including the audit transmittal letter, management letter, and any schedules in which award funds are included.

D. Failure to comply with audit requirements may adversely affect this award, other grant agreements between Grant Recipient and the Department, and future awards to Grant Recipient.

**SECTION 14. MODIFICATIONS AND AMENDMENTS**

A. Any alterations, additions, or deletions to the terms of this Agreement shall be by amendment in writing and executed by the parties to the Agreement.

B. Amendments will generally be required when any of the following are anticipated: (1) a change to the scope, location, or objectives of the Project, including purpose or beneficiaries; (2) revision to Exhibit B, Project Budget, including budget category expenditure variances and transfer of expenditures to an unbudgeted line item; and (3) a need to extend the availability of grant funds or Performance Period.

C. A request for modification or amendment to the Agreement shall be submitted to the Department in writing, including an explanation or justification for the request, no later than thirty (30) days prior to the end of the agreement term. A request for an extension must be supported by documentation of extenuating or unforeseeable circumstances beyond Grant Recipient's control which prevented completion of the Project within the agreement term and include a revised performance plan and schedule showing when major milestones will be completed for each activity. Requests may be submitted to the Department for approval less than thirty (30) days prior to the end of the agreement term but only for good cause as determined by the Department based on the justification submitted with the request.

D. Such amendments shall not invalidate the Agreement, nor relieve or release the Department or Grant Recipient from its obligations under the Agreement except as specifically set out therein.

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

## **SECTION 15. INDEMNIFICATION**

A. To the extent allowed by law and the Constitution of the State of Texas, Grant Recipient and the Department shall each be responsible for the acts or omissions of their respective agents and employees.

B. Grant Recipient shall, to the extent allowed by law and the Constitution of the State of Texas, indemnify and hold harmless the Department, its officers, agents, employees and representatives from any and all liability, actions, claims, demands or suits, and all related costs, attorney fees and expenses arising out of or related to (1) the work, services, or materials provided under this Agreement; (2) any failure of Grant Recipient to perform its obligations under this Agreement; or (3) any improper or deficient performance of such contractual obligations. The Department shall not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this Agreement.

C. This Section 15 shall survive the expiration or termination of the Agreement.

## **SECTION 16. AWARD CLOSEOUT**

A. Closeout of the award shall be based upon a determination that all applicable administrative actions and all required Project-related activities have been completed in accordance with the terms of the Application, this Agreement, and all

B. Upon the Department's review of all financial, performance, and other required reports, the Department may make upward or downward adjustments to the allowable costs, within the limits of the Grant Amount, on the basis of the information contained in the reports.

C. Regardless of whether audits were conducted during the agreement term, a final financial and compliance audit may be initiated up to three (3) years after the Agreement completion date beginning with the date Grant Recipient submits

D. Any award funds not expended by Grant Recipient in conjunction with the Project prior to the end of the term of the Agreement, including any authorized extensions, shall be forfeited.

**SECTION 17. SUSPENSION AND TERMINATION**

A. Vgt o kpcvkqp "hqt" Ecwug < "Kh" v j g " F g r c t v o g p v " f g v g t o k p g u " v j c v " I t c p v " T g e k r k g p v " j c u " e q o o k v v g f " c " o c v g t k c n " d t g c e j " q t " default of any covenant, obligation or other agreement under this Agreement; failed to fulfill or perform any obligation under this Agreement; or failed to comply with any of the terms or conditions of this Agreement, in whole or in part, and such breach, default or failure is not cured within fourteen (14) days after the Department's notice or such longer period as the Department may specify in such notice, the Department may place Grant Recipient in default status and take any or all of the following actions:

- (1) Suspend activities under the Agreement upon thirty (30) days advance written notice by the Department date of the suspension, the corrective action that must be taken and the time period during which the
- (2) Terminate the Agreement for cause, in whole or in part, upon thirty (30) days advance written notice by Recipient shall have no right to utilize award funds to pay any costs incurred after the effective date of a termination for cause.
- (3) Terminate the Agreement for cause, in whole or in part, immediately effective upon notice, whenever the Department determines that Grant Recipient has jeopardized the safety and welfare of the public, materially failed to comply with the terms and conditions of the Agreement, or whenever the fiscal or this provision shall state the reason for the action, the effective date of the termination and closeout
- (4) Invoke any other remedy or remedies that may be legally available.

B. Termination for Convenience: Either party may terminate this Agreement at any time for convenience by providing a written notice to the other party at least thirty (30) days in advance of the intended date of termination.

C. O w w w c n " V g t o k p c v k q p < " V j k u " C i t g g o g p v " o c { " d g " v g t o k p c v g f " k o o g f k c v g n { " w r q p " o w w w c n " y t k v v g p " e q p u g p v " q h " v j g " R c t v k g u " q t " c v " u w e j " q v j g t " v k o g " c u " v j g " r c t v k g u " o c { " c i t g g " k p " v j g " y t k v v g p " e q p u g p v " o " }

D. Effect of Termination: Upon receiving a notice of termination of this Agreement, Grant Recipient shall immediately cease all activities under this Agreement unless the Department expressly directs otherwise. Each party shall be released from all obligations to the other party arising after the date of the termination or expiration, except for those that by their terms survive such termination or expiration.

**SECTION 18. CORRECTIVE ACTIONS/REMEDIES FOR NONCOMPLIANCE**

A. In addition to any other rights or remedies available at law or in equity, if Grant Recipient fails to comply with any term, condition, requirement, or provision of this Agreement, in whole or in part, the Department may take one or more of the following actions:

- (1) Temporarily withhold payment of funds pending correction of the default by Grant Recipient;
- (2) Disallow all or part of the cost of the noncompliant activity or action and reduce the Grant Award by such amount;
- (3) Wholly or partially suspend or terminate the award and this Agreement as provided in this Agreement;
- (4) Withhold further awards to Grant Recipient;
- (5) Require Grant Recipient to repay award funds that the Department determines were not expended in compliance with this Agreement or any applicable statutes or regulations;
- (6) Impose an administrative penalty which results in a reduction of the budget line item for grant administration; or
- (7) Invoke any other remedy or remedies that may be legally available.

B. Failure to comply with any terms of this Agreement include, but are not limited to, the following:

- (1) Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and guidelines, policies or directives as may become applicable at any time;
- (2) Failure, for any reason, of Grant Recipient to fulfill in a timely and proper manner its obligations under this Agreement;
- (3) Ineffective or improper use of funds provided under this Agreement; or
- (4) Submission by Grant Recipient to the Department reports that are incorrect or incomplete in any material respect.

C. The Department reserves the right to immediately cancel this Agreement, in whole or in part, without penalty and without an opportunity for Grant Recipient to cure if:

- (1) award funds are misused;
- (2) Grant Recipient commits fraud through intentional, reckless or grossly negligent conduct; or
- (3) Grant Recipient knowingly made any false statements or misrepresentations in the Application or any certification, report or other information submitted to the Department under this Agreement.

D. In the case of a cancellation, suspension or termination, monies already received by Grant Recipient under this Agreement may be owed back to the Department and the Department may also declare Grant Recipient ineligible to receive any further awards until the entire obligation has been repaid to the Department.

## **SECTION 19. ASSIGNABILITY OF AGREEMENT, SUCCESSORS IN INTEREST**

A. Grant Recipient shall not assign or transfer this Agreement, or any part thereof, without prior written consent of the Department. Any such assignment or transfer, if approved, is subject to such conditions and provisions required by the Department. No approval by the Department of any assignment or transfer shall be deemed to create any obligation of the Department in addition to those set forth in this Agreement.

B. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties, their respective

**SECTION 20. SUBAWARDS/SUBCONTRACTS**

A. Approvals: Whenever Grant Recipient intends to subcontract any work or services under this Agreement, Grant Recipient shall not enter into any contracts with any agency or individual in the performance of this Agreement without the written consent of the Department prior to the execution of such contract. It is understood that consent of the Department to subcontract in no way relieves Grant Recipient of any of its duties or obligations under this Agreement nor precludes the Department from taking any action which may be available to it under this Agreement or otherwise in law.

B. Monitoring: Grant Recipient shall monitor all work and services on a regular basis to assure they are carried out in accordance with this Agreement. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

C. Content: With any subgrantee or subcontractor, Grant Recipient must have a written contract that complies with applicable requirements and regulations. All work or services covered under this Agreement which is contracted by Grant Recipient shall be subject to all provisions of this Agreement. Grant Recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

D. Selection Process: Grant Recipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be maintained in Grant Recipient's files along with documentation concerning the selection process and made available upon request.

**SECTION 21. COPYRIGHTS**

Grant Recipient may exercise its rights to ownership of materials developed during the course of a grant-supported activity and to the federal agency providing the funds (as applicable), for governmental purposes, a royalty-free, non-exclusive license to the Department does not preclude Grant Recipient from exercising its right of ownership of the materials, or Grant Recipient, then the net proceeds constitute program income as defined, and the funds must be treated accordingly as defined by regulations and published Grant Program guidance.

**SECTION 22. INDEPENDENT CONTRACTOR**

Nothing contained in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer/employee between Grant Recipient and the Department. Grant Recipient shall at all times remain an independent contractor with respect to the work and services to be performed under this Agreement.

**SECTION 23. CONFLICT OF INTEREST**

A. In the administration of the award, the performance of activities under the Agreement, and the procurement of supplies, equipment, construction and services, Grant Recipient shall comply with all conflict-of-interest prohibitions and disclosure requirements required by applicable law, rules and policies, including Chapter 176 of the Texas Local Government Code. If Grant Recipient actually or potentially, or reasonably creates an appearance of impropriety, Grant Recipient shall promptly notify the Department.

B. Grant Recipient 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/agreements supported by award funds, which includes the following:

- (1) No employee, officer or agent of Grant Recipient shall participate in the selection, or in the award, or administration of, a contract/agreement supported by award funds if a conflict of interest, real or apparent, would be involved.
- (2) Grant Recipient shall not employ or contract with any individual who:
  - 1. owns an interest in or is an officer or employee of a third-party business entity that has or may have an interest in the award or the performance of the award;
  - 2. is an officer or employee of a third-party business entity that has or may have an interest in the award or the performance of the award;
  - 3. has performed services regarding the subject matter of the Project for an entity that has a direct or indirect interest in the award or the performance of the award.
- (3) Grant Recipient will maintain safeguards to address and prevent any organizational conflict of interest, and also to prohibit employees from using their positions in any manner that poses, or appears to pose, a personal or financial conflict of interest, or personal gain.

C. Grant Recipient shall include in all subawards and subcontracts any necessary provisions to eliminate or neutralize conflicts of interest.

**SECTION 24. SEVERABILITY**

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision.

**SECTION 25. PUBLIC/CONFIDENTIAL INFORMATION**

A. Public Information: Grant Recipient understands that the Department will comply with the Texas Public Information Act, Chapter 552 of the Texas Government Code. Information, documentation, and other material in connection with this Agreement and award may be subject to public disclosure pursuant to the PIA. Grant Recipient is required to make any information created or exchanged with the Department pursuant to this Agreement, and not otherwise excepted from disclosure under the PIA, available in a format that is accessible by the public.

B. Client Data and Other Sensitive Information: Grant Recipient is required to maintain data demonstrating client eligibility for activities provided under this Agreement. Such data may include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of activities provided. Grant Recipient must comply with 2 CFR 200.303 and take reasonable measures to safeguard protected personally identifiable information, as defined in 2 CFR 200.82, and other information Grant Recipient considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

**SECTION 26. WAIVER**

The Parties expressly agree that no provision of the award or Agreement is in any way intended to constitute a waiver by the Department or the State of Texas of any immunities from suit or from liability that the Department or the State of Texas may have by operation of law. Any right or remedy provided for in this Agreement shall not preclude the exercise of any other right or remedy under the Agreement 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 Grant Recipient 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 27. GOVERNING LAW AND VENUE**

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

**SECTION 28. ORAL AND WRITTEN AGREEMENTS**

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

**SECTION 29. EXECUTION OF AGREEMENT**

This Agreement is not effective unless signed by the Texas Agriculture Commissioner or by his authorized designee.

**Exhibit D****Certifications and Assurances ó"State Grant**

By signature hereon, Grant Recipient hereby certifies and assures, with respect to this award and performing its responsibilities under this Agreement, that it will comply with all applicable laws, regulations, executive orders, policies, guidelines, and requirements.

1. **LEGAL AUTHORITY** ó"Grant Recipient represents that it possesses legal authority to enter into the agreement, including all understandings and assurances contained therein. A resolution, motion or other similar action has been duly adopted or passed as an official act of Grant Recipient's governing body, directing and authorizing the person identified as the official representative, or the designee of Grant Recipient, to act in connection with the Agreement, to provide such additional information as may be required, to sign and execute the Agreement on behalf of Grant Recipient, and to validly and legally bind Grant Recipient to all of its terms, performances, and provisions.
  
2. **CHILD SUPPORT PAYMENTS** ó"Grant Recipient represents and affirms that it will included the following clause in the award documents for every subaward and subcontract and will require subrecipients and subcontractors to certify accordingly: "Under Section 231.006 of the Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application."
  
3. **CONTRACT OVERSIGHT** ó"Grant Recipient represents and affirms that it will maintain oversight to ensure that all terms, conditions, and requirements of the agreement, including these certifications and assurances, are met and that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
  
4. **COMPLIANCE WITH LAWS, RULES AND REQUIREMENTS** ó"Grant Recipient represents and affirms that it will comply and assure the compliance of all its subrecipients and contractors, with all award requirements imposed by applicable federal and state laws, rules, regulations, and policies in effect or hereafter established. In addition, Grant Recipient represents and affirms that it will comply with all requirements imposed by the Department concerning special requirements of law, program requirements, and other administrative requirements. In instances where multiple requirements apply to Grant Recipient, the more restrictive requirement applies.
  
5. **CYBERSECURITY TRAINING (Local Government System)** ó"Grant Recipient represents and affirms its compliance with Section 2054.5191 of the Texas Government Code relating to the cybersecurity training program for local government employees who have access to a local government computer system or database.
  
6. **DEBARMENT AND SUSPENSION** ó"Grant Recipient certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the United States General Services Administration.

7. DEBTS AND DELINQUENCIES Grant Recipient acknowledges and agrees that, to the extent Grant Recipient owes any debt including, but not limited to, delinquent taxes, delinquent student loans, and child support owed to the State of Texas, any payments or other amounts Grant Recipient is otherwise owed under the Agreement may be applied toward any debt Grant Recipient owes the State of Texas until the debt is paid in full.
8. DISASTER RECOVERY PLAN Grant Recipient shall provide the descriptions or copies of its most recent business continuity and disaster recovery plans.
9. DISCLOSURE OF PRIOR STATE EMPLOYMENT In accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, Grant Recipient certifies that it will not assign an employee to the Project if the individual has been employed by the Department or another agency at any time during the two (2) years preceding the submission of the Grant Application or, in the alternative, Grant Recipient has disclosed to the Department the following: (i) the nature of the previous employment with the Department or the other agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation for the employment at the time of its termination.
10. DISCLOSURE PROTECTIONS FOR CERTAIN CHARITABLE ORGANIZATIONS Grant Recipient represents and affirms that it will comply with Section 2252.906 of the Texas Government Code, relating to disclosure protections for certain charitable organizations, charitable trusts, and private foundations.
11. DISCRIMINATION PROHIBITED In accordance with Section 2105.004 of the Texas Government Code, Grant Recipient represents and affirms that it will not use block grant funds in a manner that discriminates on the basis of race, color, national origin, sex, or religion.
12. DISPUTE RESOLUTION The dispute resolution process provided in Chapter 2009 of the Texas Government Code is available to the parties to resolve any dispute arising under the Agreement.
13. DRUG-FREE WORKPLACE Grant Recipient represents and affirms that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 and maintain a drug-free work environment.
14. ELIGIBILITY; FINANCIAL PARTICIPATION Under Texas Government Code, Section 2155.004, no person who received compensation for participating in preparing the specifications or request for proposals on which this agreement is based has any financial interest in this agreement. Grant Recipient certifies that the individual or business entity named in this agreement, contract or application is not ineligible to receive the specified agreement, loan, award or payment and acknowledges that this agreement may be terminated and payment withheld if this certification is inaccurate.
15. EXCLUDED PARTIES Grant Recipient certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, published by the United States Department of the Treasury, Office of Foreign Assets Control.

16. EXECUTIVE HEAD OF STATE AGENCY ó"Under Section 669.003, Texas Government Code, Grant Recipient represents that no person who served as an executive of the Department or any other state agency, in the past four (4) years, was involved with or has any interest in the agreement or grant. If Grant Recipient employs or has used the services of a former executive head of the Department or any other state agency, then Grant Recipient shall provide the following information to the Department: name of former executive; name of the state agency; date of separation from the state agency; position held with Grant Recipient; and date of employment with Grant Recipient.

17. FELONY ó"Sections 2155.006 and 2261.053, Texas Government Code, prohibit the Department from awarding a contract to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Grant Recipient certifies that the individual or business entity named in this agreement, contract or application is not ineligible to receive the specified agreement, loan, award or payment and acknowledges that the agreement may be terminated and payment withheld if this certification is inaccurate.

18. LAW ENFORCEMENT AGENCY GRANT RESTRICTION ó"If Grant Recipient is a law enforcement agency regulated by Chapter 1701 of the Texas Occupations Code, Grant Recipient represents and affirms that it will not use appropriated money unless the law enforcement agency is in compliance with all rules adopted by the Texas Commission on Law Enforcement (TCOLE), or TCOLE certifies that it is in the process of achieving compliance with such rules.

19. LOBBYING EXPENDITURE RESTRICTION ó"Grant Recipient represents and affirms that the Department's payments to Grant Recipient and Grant Recipient's receipt of appropriated or other funds under the agreement or grant are not prohibited by Sections 403.1067 or 556.0055 of the Texas Government Code, which restrict lobbying expenditures.

20. NONDISCRIMINATION ó"Grant Recipient certifies that it will comply with all state and federal statutes relating to nondiscrimination, including the following:

- g The Civil Rights Act of 1964, as amended (42 U.S.C. §§2000d et seq.)
- g Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794)
- g The Americans with Disabilities Act of 1990 (42 U.S.C. §§12101 et seq.); and
- g The Age Discrimination Act of 1975 (42 U.S.C. §§6101 et seq.)

21. OPEN MEETINGS ó"If Grant Recipient is a governmental entity, Grant Recipient represents and affirms that it will comply with Texas Government Code, Chapter 551, which requires all regular, special or called meetings of a governmental body to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.

22. POLITICAL POLLING PROHIBITION ó"Grant Recipient represents and warrant that it does not perform political polling and acknowledges that appropriated funds may not be granted to, or expended by, any entity which performs political polling.

23. REPORTING SUSPECTED FRAUD AND UNLAWFUL CONDUCT ó"Grant Recipient represents and affirms that it will comply with Section 321.022 of the Texas Government Code, which requires that suspected fraud and unlawful conduct be reported to the State Auditor's Office.

24. TEXAS STATE AUDITOR'S RIGHT TO AUDIT ó Pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under any contract or indirectly through a subcontract under the contract. The acceptance of funds by Grant Recipient or any other entity or person directly under this Agreement or indirectly through a subcontract under the Agreement acts as acceptance of the authority of the Texas State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, Grant Recipient or other entity that is the subject of an audit or investigation by the Texas State Auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Grant Recipient shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the contract and the requirement to cooperate is included in any subcontract it awards.

25. SUSPECTED CHILD ABUSE ó Grant Recipient will comply with the Texas Family Code, Section 261.101, which requires reporting of all suspected cases of child abuse to local law enforcement authorities and to the Texas Department of Child Protective and Regulatory Services. Grant Recipient shall also ensure that all program personnel are properly trained and aware of this requirement.

26. WORKPLACE GUIDELINES ó Grant Recipient will adopt and implement applicable provisions of the model HIV/AIDS workplace guidelines of the Texas Department of State Health Services, formerly the Texas Department of Health, as required by the Texas Health and Safety Code, ÈÈ85.001 et seq.

27. PUBLIC CAMPING BAN ó Respondent certifies and affirms that it has not received a final judicial determination finding it intentionally adopted or enforced a policy that prohibited or discouraged the enforcement of a public camping ban in an action dtqw i j v d { " v j g " V g z c u " C v v q t p g { " I g p g t c n " w p f g t " V g z c u " N q e c n " I q x g t p o g p v " E q f g . " È 5 8 6 0 2 2 5 0 " k h " T g u r q p f g p v " k u " e w t t g p v n { " d g k p i " u w g f " w p f g t " v j g " r t q x k u k q p u " q h " V g z c u " N q e c n " I q x g t p o g p v " E q f g . " È 5 8 6 0 2 2 5 . " q t " k u " u w g f " w p f g t " v j k u " u g e v k q p " c v " c p { " r q k p v " f w t k p i " v j g " f w t c v k q p " q h " this grant and this Agreement, Respondent must immediately disclose the lawsuit and its current posture to the Department.

28. CHANGE IN LAW AND COMPLIANCE WITH LAWS ó Any alterations, additions, or deletions to the terms of the Agreement that are required by changes in federal or state law or regulations are automatically incorporated into the Agreement without written amendment hereto, and shall become effective on the date designated by such law or by regulation. Grant Recipient shall comply with all laws, regulations, requirements and guidelines applicable to a vendor providing services and products required by the Agreement to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended throughout the term of the Agreement. The Department reserves the right, in its sole discretion, to unilaterally amend the contract prior to award and throughout the term of the contract to incorporate any modifications necessary for the Department's compliance, as an agency of the State of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.

Failure to comply with applicable assurances may result in the withholding or suspension of funds, termination of the award, or other available remedies, and Grant Recipient may be ineligible for future awards if the Department determines that any of the following has occurred: (1) Grant Recipient has made false certification, or (2) Grant Recipient violated the certification by failing to carry out the requirements as noted above.