RESOLUTION NO. 2024-117

FARMERS BRANCH

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND DALLAS COUNTY UTILIZING AN ALLOCATION OF UP TO $2,500,000 OF FEDERAL GRANT FUNDING UNDER THE AMERICAN RESCUE PLAN ACT (ARPA) FOR REDEVELOPMENT OF RESIDENTIAL HOMES IN THE VALWOOD PARK NEIGHBORHOOD TO BE USED AS PART OF THE CITY'S HOUSING REPLACEMENT PROGRAM; AUTHORIZING THE CITY MANAGER TO EXECUTE APPROPRIATE AGREEMENTS AND PROVIDE FOR PAYMENT ON THE CITY'S BEHALF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has been presented with an Interlocal Agreement from Dallas County for the development, demolition, construction, and management and compliance services for new, affordable, owner-occupied homes to be located in the Valwood Park neighborhood of the City (Project); and

WHEREAS, pursuant to the Interlocal Agreement approved herein by and between the City and Dallas County, the total grant allocation by the County towards the Project, as part of the City's Housing Replacement Program, is agreed to an amount not to exceed $2,500,000.00; and

WHEREAS, the City Council of the City of Farmers Branch, Texas, upon full review and consideration of the proposed Project, the Interlocal Agreement, and all matters related thereto, is of the opinion and finds that the Agreement should be accepted and that the City Manager should be authorized to accept and execute the Agreement on the City's behalf, which the Council finds and determines is in the best interests of the citizens of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, THAT:

SECTION 1: The City Council hereby approves, and the City Manager is hereby authorized to execute, the "Interlocal Agreement Between Dallas County and City of Farmers Branch," attached hereto as Exhibit "A," involving the allocation of County's ARPA grant funding in an amount not to exceed $2,500,000.00, to be used as part of the City's Housing Replacement Program and administered in accordance with the Agreement, and is further authorized to execute on the City's behalf any necessary or appropriate documents and accept and approve such contract amendments as the City Manager deems reasonable, necessary, in the public interest, in compliance with applicable law and City policy, subject to the availability of funds.

SECTION 2. This Resolution shall become effective immediately from and after its passage as the law and charter in such cases provide.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, THIS 16th DAY OF JULY 2024.

ATTEST:

Stacy Henderson

Stacy Henderson, City Secretary

APPROVED:

Terry Lynne

Terry Lynne, Mayor

APPROVED AS TO FORM:

David M. Berman

David M. Berman, City Attorney

THE STATE OF TEXAS §

COUNTY OF DALLAS §

INTERLOCAL AGREEMENT
BETWEEN DALLAS COUNTY AND CITY OF FARMERS BRANCH

This **Interlocal Cooperation Agreement** ("**Agreement**") is entered into pursuant to the authority granted by Chapter 791 of the Texas Government Code by and between **Dallas County,** a political subdivision of the State of Texas, acting by and through the Dallas County Commissioners Court (hereinafter the "**County**") and the **City of Farmers Branch, Texas** (hereinafter the "**City**" and "**Subrecipient**"), a Texas municipal corporation primarily located in Dallas County, Texas, acting by and through its authorized officers and according to the authority granted by the Charter and ordinances of the City of Farmers Branch and other applicable state laws and regulations for the development, demolition, construction, and management and compliance services for new, affordable, owner-occupied homes to be located in the Valwood Park neighborhood of the City (the "**Project**") as described in this Agreement and **Exhibit E – Statement of Work and Deliverables**. The City and the County are sometimes referenced as a "**Party**" and collectively as the "**Parties**."

RECITALS

WHEREAS, the 2019 Novel Coronavirus ("COVID-19") pandemic was declared a public health emergency in the United States in January 2020;

WHEREAS, in March 2021, as these crises continued, the President signed the American Rescue Plan Act of 2021 ("**ARPA**") and established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund, which together make up the Coronavirus State and Local Fiscal Recovery Funds ("**SLFRF**") program.

WHEREAS, the SLFRF program is intended to provide state, local, and Tribal governments with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery; and

WHEREAS, on January 6, 2022, the U.S. Department of the Treasury ("**Treasury**") adopted a final rule implementing the SLFRF program allowing recipients of SLFRF funds to use the funds in one of the four eligible use categories specified in the ARPA; and

WHEREAS, on December 29, 2022, the Consolidated Appropriations Act, 2023 (the "**SLFRF Program Amendments**") was enacted, amending the SLFRF program to provide additional flexibility for recipients to use SLFRF funds to respond to natural disasters, build critical infrastructure, and support community development.

WHEREAS, on September 20, 2023, the Treasury issued an interim final rule implementing the SLFRF Program Amendments. The SLFRF Program Amendments do not alter existing eligible use categories originally provided by the ARPA and all eligible uses described in the Final Rule remain available to recipients.

WHEREAS, County and City have received Coronavirus State and Local Fiscal Recovery Funds from the Treasury under the American Rescue Plan Act; and

WHEREAS, the U.S. Department of the Treasury has allocated to the County $511,918,088.00 of federal stimulus funding from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Funds under CFDA No. 21.027 ("**ARPA Funds**") under Section 603(b) of the Social Security Act, as amended by Section 9901 of the American Rescue Plan Act , of which $255,959,044.02 was distributed to the County on May 12, 2021 with the remainder of funds to be disbursed by Treasury to the County thereafter, for the purposes identified in the U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions Agreement between the Treasury and Dallas County signed May 12, 2021 ("**Award Terms**"), identified as **Exhibit A,** the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule ("**Interim Final Rule**"), identified as **Exhibit B,** the Coronavirus State and Local Fiscal Recovery Funds Final Rule ("**Final Rule**"), identified as **Exhibit C,** the Consolidated Appropriations Act, 2023, (the " **SLFRF Program Amendments"),** identified as **Exhibit C-1,** and the Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds ("**Compliance & Reporting Guidelines**"), identified as **Exhibit D.**

WHEREAS, the federal award identification number (FAIN) for the ARPA Funds awarded to the County by the Treasury under CFDA No. 21.027 is SLRFRP1608; and

WHEREAS, Treasury has issued guidance and clarification on ARPA and the appropriate use of ARPA Funds; and

WHEREAS, the ARPA authorizes the County to expend ARPA Funds awarded to the County for the following eligible purposes as outlined in the Final Rule as follows:

(1) To respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

(2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the government who are performing essential work;

(3) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and

(4) To make necessary investments in water, sewer, or broadband infrastructure (collectively "Eligible Uses"); and

WHEREAS the SLFRF Program Amendments provide that ARPA Funds may be used for the following additional eligible purposes:

(1) to provide emergency relief from natural disasters or the negative economic impacts of natural disasters, including temporary emergency housing, food assistance, financial assistance for lost wages, or other immediate needs; and

(2) infrastructure projects, including projects eligible under certain Department of Transportation programs (Surface Transportation projects); and

(3) projects eligible under Title I of the Housing and Community Development Act of 1974 **(Title I projects)**.

The eligible uses outlined in the Final Rule and the SLFRF Program Amendments are collectively referred to herein as **"Eligible Uses."**

WHEREAS, the SLFRF program permits ARPA Funds to be used, among other uses, to respond to the public health and negative economic impacts of the pandemic, including for the development, repair, and operation of affordable housing.

WHEREAS, ARPA Treasury Guidance affirms the objectives stated in the Interim Final Rule that the allocation of ARPA SLFR Funds to improve access to stable, affordable housing, including through interventions that: (i) increase the supply of affordable housing and high-quality living units; (ii) improve housing security; and (iii) support durable and sustainable homeownership; and

WHEREAS, Treasury has updated its guidance (1) to clarify two presumptively eligible ways to use ARPA Funds to fund affordable housing investments under the final rule and (2) to enable grantees to use ARPA Funds to fully finance long-term affordable housing loans.

WHEREAS, ARPA-funded affordable housing projects under the public health and negative economic impacts of the pandemic eligible use category are presumptively eligible if the project meets certain core requirements of the following expanded list of federal housing programs:

» National Housing Trust Fund (HTF)
» HOME Investment Partnerships Program (HOME)
» Low-Income Housing Credit (LIHTC)
» Public Housing Capital Fund
» Section 202 Supportive Housing for the Elderly Program
» Section 811 Supportive Housing for Persons with Disabilities Program
» Project-Based Rental Assistance
» Multifamily Preservation & Revitalization Program

WHEREAS, Treasury has clarified that there are four core program requirements of these federal housing programs that must be met for presumptive eligibility:

»Resident income restrictions;
»The affordability period and related covenant requirements for assisted units;
»Tenant protections; and
»Housing quality standards.

WHEREAS, the HOME Investment Partnership Program (HOME) provides for specific regulations for expenditures related to rehabilitation and reconstruction of housing, conversion of structures to housing, or construction of certain housing and; the expenditures related to this project in the Valwood and adjacent areas will use existing HOME programs and regulations to carry out activities; and

WHEREAS, the Treasury has determined that rehabilitation and reconstruction of housing, conversion of structures to housing, or construction of certain housing and providing technical assistance to entities to increase capacity to carry out Community Development Block Grant-eligible projects are eligible uses of ARPA Funds;

WHEREAS, the County intends to utilize a portion of its allocation of ARPA SLFR funds for projects and programs that assist disadvantaged and underserved communities through housing and infrastructure improvements; and

WHEREAS, the City and the County desire to address the needs of low- and moderate- income (LMI) persons, particularly low-income homeowners at or below thirty percent (80%) of the Area Median Income; prevent displacement of lower-income families in urban areas; and aid in the prevention or elimination of blight by demolition of a dilapidated homes; and

WHEREAS, via redevelopment of dilapidated homeowner-owned properties, through the construction of safe, energy-efficient homes, the City and the County seek to support Target Populations by enhancing neighborhood stability, building intragenerational wealth, and preservation of social connections of existing residents in their neighborhoods; and

WHEREAS, the City wishes to develop and implement a Housing Replacement Program that mirrors the County's existing Housing Replacement Program which will follow HUDs Home Investment Partnership Program regulations generally identified under CFR 24 part 92; and

WHEREAS, the Valwood neighborhood and surrounding census tracts, which are located in the City of Farmers Branch, Dallas County, Texas have been selected by the City for intervention due to a number of factors including the age of homes, the structural quality of the homes and the risk of exclusionary displacement from the loss of affordable housing units; and

WHEREAS, the County wishes to allocate portions of the ARPA Funds awarded to the County to the City for its Housing Replacement Program which funding shall be used to demolish ten (10) dilapidated or functionally obsolete homeowner-owned single-family homes in the Valwood neighborhood area of the City and surrounding Census tracts and to construct ten (10) new energy-efficient homes on those lots for the homeowner;

WHEREAS, the County finds that the services to be provided by the City under this Agreement are eligible uses and activities authorized under ARPA, the Interim Rule, the Final Rule, the SLFRF program, and the SLFRF Program Amendments.

WHEREAS, the City and the County seek to enter into an interlocal agreement, consistent with the terms set forth in this Agreement and **Exhibit E – Statement of Work and Deliverables** attached hereto and incorporated by reference, to fund the construction of ten (10) homes in the Valwood neighborhood as part to the City's Housing Replacement Program under which the County will provide the City with an allocation not to exceed **TWO MILLION FIVE HUNDRED THOUSAND DOLLARS ($2,500,000.00)** of ARPA Funds to enable the City to identify 10 qualified homeowners, demolish the homeowner participant dilapidated single-family homes, and construct an energy-efficient home of up to 1,300 square feet on each of these 10 residential lots that includes a minimum of three bedrooms, one and a half baths, an HVAC unit, a stove, a refrigerator, a minimum one-year warranty;

WHEREAS, the City has agreed to oversee the development, design, and construction of these 10 homes, including taking the lead in all public solicitations to solicit one or more proposals needed for the demolition of the existing dilapidated homes and the design, engineering, and construction of the new replacement homes; and

WHEREAS, the County agrees to participate in a collaboration with the City to ensure long-term compliance for homes built under the City's Housing Replacement Program by a 15-year lien complying with HOME regulations as identified in the County's Housing Replacement Program;

WHEREAS, the City agrees that it will contract for the demolition of the existing dilapidated homes, and the design, architect, and engineering services and the construction, of the new replacement homes; and

WHEREAS, the Project will have a positive impact on the City and County by assisting low-income homeowners impacted by the pandemic; and

WHEREAS, the Commissioners Court, as the governing body of Dallas County, finds that the demolition and reconstruction of 10 single-family homes as described in Exhibit E is intended for the development, repair, and operation of affordable housing and these activities are eligible uses authorized under ARPA, the Interim Rule, the Final Rule, the SLFRF program, the SLFRF Program Amendments and Treasury Guidance.

WHEREAS, the ARPA Funds are allocated to the Subrecipient in compliance with federal and state procurement requirements and guidelines; and

WHEREAS, the County wishes to allocate portions of the ARPA Funds awarded to the County to Subrecipient for the provision of affordable housing to respond to the negative impacts of the pandemic; and

WHEREAS, the Commissioners Court, as the governing body of Dallas County, finds that the services and use of the ARPA Funds described herein are a result of or necessitated by the COVID-19 global pandemic and are necessary to respond to the negative impacts of the pandemic; and

WHEREAS, the County also finds that the expenditure of public funds in support of the operations of the County's businesses and residents, especially in this time of a pandemic crisis, accomplishes a valid public purpose of protecting the Dallas County economy and the economic welfare of the residents of Dallas County; and

WHEREAS, the Subrecipient will serve a benefit to all Dallas County residents during this pandemic, providing affordable housing opportunities within the County; and

WHEREAS, the Parties desire to enter into this Agreement for the purposes stated herein; and

WHEREAS, these Recitals are incorporated into this Agreement and are expressly made a part of this Agreement; and

NOW THEREFORE, in consideration of the mutual undertaking hereinafter set forth and for adequate consideration given, the County and the City agree to the following:

1. TERM

This Agreement shall commence on the day this Agreement is last executed by the Parties and continue until the services and deliverables detailed in the **Statement of Work and Deliverables** attached hereto as **Exhibit E** is completed unless terminated earlier under any provision hereof. Notwithstanding the foregoing, the services and deliverables detailed in the attached Exhibit E shall be completed by September 30, 2026 (the "***Term***").

2. INCORPORATED DOCUMENTS

The Exhibits listed below are a part of this Agreement and are incorporated by reference as if fully reproduced herein and constitute promised performances by the City in accordance with all terms of this Agreement. References to "Agreement" in this Agreement will include reference to all of the exhibits to this Agreement.

(a) U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions signed May 12, 2021, attached hereto as **Exhibit A.**

(b) Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule ("**Interim Final Rule**"), attached hereto as **Exhibit B.**

(c) Coronavirus State and Local Fiscal Recovery Funds Final Rule ("**Final Rule**"), attached hereto as **Exhibit C.**

(d) Consolidated Appropriations Act, 2023 ("**SLFRF Program Amendments**") attached hereto as **Exhibit C-1.**

(e) U.S. Department of Treasury Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds (version 5.4 dated December 14, 2023) ("**Compliance & Reporting Guidelines**"), attached hereto as **Exhibit D.**

(f) Statement of Work and Deliverables, attached hereto as **Exhibit E.**

(g) Title VI Assurances and Compliance, attached hereto as **Exhibit F.**

(h) Byrd Anti-Lobbying Certification 31 U.S.C. § 1352, attached hereto as **Exhibit G.**

(i) Code of Federal Regulations – Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, attached hereto as **Exhibit H**

(j) Certificate of Interested Parties FORM 1295 attached hereto as **Exhibit I.**

(k) Insurance Requirements, attached hereto as **Exhibit J**

(l) U.S. Department of the Treasury Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule, incorporated by reference

(m) INTENTIONALLY OMITTED

(n) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 ("Uniform Guidance"), incorporated by reference.

If the United States Congress, the United States Department of the Treasury, the executive branch of the federal government, the federal judiciary, or any other federal agency with jurisdiction issues any further guidance or regulations on the appropriate use of the ARPA Funds, that further guidance shall be incorporated into this Agreement without the need for further action or amendment.

3. SCOPE OF SERVICES AND OBLIGATIONS

Dallas County will contribute up to **TWO MILLION FIVE HUNDRED THOUSAND DOLLARS ($2,500,000.00)** (hereinafter the "**ARPA Grant**") of its allocated ARPA Funds to the City to help fund certain components of the City's Housing Replacement Program which includes the demolition, replacement, and construction of up to ten (10) dilapidated owner-occupied homes in the Valwood neighborhood area as detailed in Exhibit E – Statement of Work and Deliverables.

4. CITIES RESPONSIBILITIES AND DUTIES

a) The City shall identify the 10 qualifying homeowners ("***Qualified Homeowner***") to participate in the City's Housing Replacement Program;

b) The City shall develop, advertise, and solicit bids for the demolition of up to 10 Qualified Homeowner-occupied single-family homes and the design, architect, and engineering services and the construction of the Replacement Housing Units on those lots in accordance with statutory procurement requirements.

c) The City shall administer and manage the demolition and the construction of the Replacement Housing Units and be responsible for any cost overruns in excess of the County ARPA Grant funding participation;

d) The City will procure a contractor to provide offsite temporary storage for the household items for those Qualified Homeowners in the City's Housing Replacement Program;

e) The City shall ensure that any contracts entered into pursuant to this Agreement must include any provisions necessary to comply with all federal terms and conditions of the ARPA Award Terms, the Federal Uniform Guidance, and U.S. Treasury Guidance.

f) City will follow state and local competitive procurement procedures and Subparts D and E of the Federal Uniform Guidance, 2 C.F.R. Part 200 when soliciting contractors for the demolition, design, architect, and engineering services and construction of the Replacement Housing Units.

g) City of Farmers Branch staff will identify qualified applicants and have applicant complete the County checklist and application forms. Qualification will include a certification by City staff that the applicant home is functionally obsolete (repair cost exceeds replacement cost).

h) City staff will forward the intake form and required supporting documentation for County completeness review for each applicant deemed qualified.

i) For a qualifying applicant, the City will provide the County with a full copy of the application and support materials.

j) City will set a date for construction contract signing and Qualified Homeowner signing of deed of trust, construction contract, and other related documents and communicate that signing location and date to the County.

k) City staff will work with the Qualified Homeowner and selected contractor/builder to schedule Qualified Homeowner move out (including temporary home-furnishing and personal items storage), demolition, and construction schedule.

l) City staff will work with selected contractor/builder to ensure permitting and construction progress move forward in a timely manner.

m) City staff work with selected contractor/builder to schedule necessary inspections and monitor home construction progress, communicating upcoming milestones and key inspection dates to County and allow for County site inspection.

n) City Staff receives and reviews invoicing from selected contractor/builder against project completeness and forward the invoices to the County along with City documentation confirming the work matches the invoices for payment from the County.

o) City communicates home completion to County

p) The City will schedule move-in date with applicants and will communicate project completion and move-in schedules to the County.

5. COUNTY'S RESPONSIBILITIES AND DUTIES

a) Dallas County staff will provide training to Farmers Branch staff to properly complete intake forms and obtain required documentation for prospective applicants

b) County staff will provide completeness review and approval or feedback as necessary to assist City staff in completing the application process to qualify or disqualify applicants.

c) Dallas County will hold the lien as party to the deed of trust for each applicant and must be present for the signing.

d) The County will retain records during maximum compliance period of 15 years plus any records retention period for each of the qualified applicants in the program or until no longer eligible. Termination of eligibility could include events such as a home sale, foreclosure, or the end of the 15-year compliance period.

e) During the 15-year compliance period, the County will calculate the deduction from principal owed (as identified at document signing) for each month the homeowner or their heirs reside in the Replacement Housing Unit.

f) The County will communicate to the City of any home exiting the program during the compliance period and remit any proceeds to the City for affordable housing programs.

6. FINANCIAL TERMS AND CONDITIONS

The County agrees to provide ARPA funding to the City for approved expenses incurred and for documented units of services performed for the services and deliverables detailed in Exhibit E, subject to the following limitations:

a) Not to Exceed Amount. The City understands and agrees that the maximum total amount payable for the services and funds to be distributed by the County to the City under this Agreement shall not exceed **TWO MILLION FIVE HUNDRED THOUSAND DOLLARS ($2,500,000.00)** (hereinafter "**ARPA Grant**") unless a formal written amendment is executed by the Parties hereto and is formally approved by the Commissioners Court. The County shall not pay for any services nor distribute any funds that would cause the amounts described herein to exceed the ARPA Grant amount. The ARPA Grant amount includes reimbursement of the City's internal and indirect administrative costs for administering the services provided under this Agreement in an amount that does not and will not exceed ten percent (10%) of all funds received under this Agreement..

b) No Debt Against the State or County. This Agreement shall not be construed as creating any debt by or on behalf of the State of Texas and/or the County, and/or the City.

c) Reimbursement Only. City agrees that, unless otherwise specifically provided for in this Agreement, payment by County under the terms of this Agreement is made on a reimbursement basis only for work that has been completed. The City must have verified work is done to their satisfaction, documented this verification, and submit the invoice and verification to the County before the costs are considered allowable under this Agreement and subject to payment by County.

d) Documentation Required. City agrees to submit complete, fully documented, and accurate itemized invoices, receipts, and other appropriate documentation, as reasonably required by the County and as required under the Award Terms and Conditions and Compliance and Reporting Guidelines issued by the federal government. Such documentation requirements begin at acceptance of this agreement and continue through completion of the services pursuant to the Statement of Work and Deliverables.

(i) Specifically, the invoices, receipts, and other documentation shall be itemized and include supporting documentation and subcontractor invoices.

(ii) Within the supporting documentation the subcontractor invoices shall be included, if any, and done for the term of the Agreement or until all available funds under the Agreement have been disbursed.

(iii) All documentation submitted shall represent the services rendered for the previous month.

(iv) City understands and agrees that all documentation must be submitted to County on a rolling monthly basis during the Term of this Agreement and will be paid by the County on the same basis. All required documentation shall be submitted at least monthly.

(v) To the extent documentation of costs for a prior month are not available for submission the following month, such documentation shall be submitted at the first monthly submission following receipt by City of the documentation required.

e) Disallowed Costs.City understands and agrees that it alone will be liable to County and/or the federal government for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Agreement. The Parties agree to cooperate in resolving any disputed costs.

f) Additional Funds. City may apply for funds throughout the duration of this Agreement. The County may disallow or refuse to fund any activity for which further funding is sought by the City that is not in compliance with Exhibit E. If sufficient funding is not available through the ARPA Grant, the City may limit the program to less than 10 Qualified Homeowner-occupied single-family homes should the ARPA Grant be insufficient for any reason. Further, the County may withhold further funding from the City if the City fails to comply with County's reporting requirements, performance objectives, or other requirements relating to City's performance of work, deliverables, and services under this Agreement. County shall pay only for those reimbursable costs that are allowable under applicable rules and regulations, as stated in this Agreement.City agrees that is responsible for repaying any funding used out of compliance with the SLFRF Program.

g) Prompt Payment Act. City agrees that a temporary delay in making payments due to the County's accounting and disbursement procedures shall not place the County in default of this Agreement and shall not render the County liable for interest or penalties, provided such delay shall not exceed thirty (30) calendar days after the payment due date (calculated from the date of receipt by the County). Any payment not made within thirty (30) calendar days of its due date shall bear interest in accordance with Texas Government Code § 2251.

h) The County agrees to review the City's invoices and receipts and will forward payment to the City within thirty (30) days of receipt of a verified invoiceafter the County reasonably, determines that such funds are in fact due and owing in accordance with this Agreement.

i) The Office of Special Projects is responsible for monitoring fiscal compliance activities and shall resolve any dispute between the Parties regarding the County's payments to the City for services rendered under this Agreement in conjunction with the Dallas County Auditor's Office.

j) The County may in its sole discretion disallow or refuse to fund any activity for which payment is sought by the City that is not in compliance with Exhibit E and this Agreement.

k) Prior Debts. The County shall not be liable for costs incurred or performances rendered by the City before or after the Term; for expenses not billed to the County within the applicable time frames set forth in this Agreement; or for any payment for services or activities not provided pursuant to the terms of this Agreement.

l) Refund provision. The County shall have the right to demand repayment of any funds paid to the City for services rendered or funds disbursed that did not comply with the terms of this Agreement or that were determined to be ineligible expenditures by the County or the Federal Government.The City shall promptly refund any monies previously paid or disbursed by the County that the County, in its discretion, determines were used for services or activities that were not in compliance with this Agreement.

m) Administrative Controls. City shall establish, document, and maintain adequate administrative and internal controls to ensure that only allowable and valid costs are billed to the County for Services provided under the Agreement.

7. PROJECT DESCRIPTION AND SCHEDULE

7.1 Grant Purpose. The ARPA Grant is being made solely to finance the services and deliverables described in this Agreement and Exhibit E – Statement of Work and Deliverables.

7.2 ARPA Grant Expenditure Schedule. The ARPA Grant may only be used for costs incurred within a specific time, beginning March 3, 2021, with all ARPA Grant funds obligated by December 31, 2024 and all ARPA Grant funds spent by September 30, 2026. The final invoice for reimbursement must be submitted within 90 days of the end of the Grant period.

7.3 Subrecipient Compliance. The City acknowledges that it is a subrecipient of the County's ARPA Funds and shall comply with the terms and requirements set forth in the Award Terms, the Uniform Guidance at 2 C.F.R. Part 200, and all guidance issued by the U.S. Treasury pertaining to the proper use of ARPA Funds. ARPA Grant funds not used in compliance with ARPA are subject to recapture by the County.

7.4 Eligible Use Restriction. The City shall expend the ARPA Grant only for Eligible Uses and eligible costs as described in the Statement of Work and Deliverables. The City shall be responsible for compliance with and shall comply with all material respects with all applicable law and regulations, whether such law or regulations are expressly referenced herein.

7.5 Recoupment and Costs. The City acknowledges that it is responsible for compliance with this Agreement and all state and federal laws and regulations applicable to the ARPA Grant funding source and the services and deliverables set forth in Exhibit E. Breach of this Agreement and/or failure to comply with such law or regulation may result in all or a portion of the ARPA Grant becoming subject to recoupment. If the ARPA Grant is subject to recoupment, the County will notify the City in writing and Subrecipient shall promptly, and in any event within 10 days of receiving such notice, return such ARPA Grant proceeds (including both any unexpended portion and funds equal to the portion expended) and any interest earnings thereon. In addition, Subrecipient shall be responsible for, and hereby agrees to promptly pay or reimburse the County for all costs incurred by the County, its employees, officers, and agents (including without limitation, attorneys' fees) related to or arising out of such recoupment, including without limitation costs of any related investigation, audit and/or collection efforts.

8. REPORTING AND ACCOUNTABILITY

8.1 Reporting and Compliance with Laws. The City shall comply with all reporting requirements set forth in **Exhibit D -- Compliance and Reporting Guidelines** attached hereto and provide the County any requested information and data to enable the County to comply with its reporting requirements set forth in the U.S. Department of Treasury Project and Expenditure Report User Guide – State and Local Fiscal Recovery Funds. In addition, the Subrecipient agrees that the ARPA Grant shall be expended in full compliance with all applicable provisions of federal, state, and local law and all regulations thereunder. Without limiting the generality of the foregoing, the City and County each covenants to comply in all respects with all applicable laws, regulations and rules regarding employment, and anti-discrimination.

The City agrees to submit all required documentation and reports on a timely basis and in accordance with the specified time frames pursuant to this Agreement, or as requested by the County. Penalties for delinquent reporting may include withholding of payments until such time all reports are received, cancellation and/or termination of this Agreement with no obligation to pay for undocumented or ineligible services or both.

8.2 Maintenance of Records. The Subrecipient shall maintain or cause to be maintained accounts and records with respect to the ARPA Grant in accordance with generally accepted accounting principles as issued from time to time by the Governmental Accounting Standards Board (GASB). Subrecipient shall keep and maintain all financial records and supporting documentation related to the ARPA Grant for a period of five years after all ARPA Grant proceeds have been expended or returned to the County. Wherever practicable, Subrecipient shall collect, transmit, and store such records in open and machine-readable formats. Subrecipient agrees to make such records available to the County or the United States Treasury upon request, and to any other authorized oversight body, including but not limited to the Government Accountability Office (GAO), the Treasury's Office of Inspector General (OIG) and the Pandemic Relief Accountability Committee (PRAC). Subrecipient agrees to make available or cause such accounts and records to be made available for on-site inspection during regular business hours of the Subrecipient and permit the County, the United States Treasury or any other such authorized oversight body to audit, examine, and reproduce such accounts and records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, data, and other information relating to all matters covered by this Agreement.

8.3 Access to Records. Subrecipient agrees that County, or any of its duly authorized representatives, or the Federal Government, has the right of timely and unrestricted access, on reasonable notice, to any books, documents, papers, reports, or other records of Subrecipient that are pertinent to the fulfillment of the requirements of this Agreement, in order to make audit, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to Subrecipient's personnel for the purpose of reviewing, interviewing, evaluating, and monitoring related to such documents. All such items shall be furnished to the County in Dallas County, Texas.

8.4 Audit. The Dallas County Auditor, its assigns, or any other governmental entity approved by the County shall have the unrestricted right to audit all data or documents related to this Agreement. Such data shall be furnished in Dallas County at a mutually convenient time within a reasonable time. Should the County determine it reasonably necessary, the City shall make all of its records, books, and documents reasonably related to this Agreement available to authorized County personnel, at reasonable times and within reasonable periods, for inspection or auditing purposes or to substantiate the provisions of services under this Agreement.

(A) Subrecipient agrees to comply with the grant monitoring guidelines, protocols, and procedures established by the County and any federal funding agency, and to cooperate with the County and any relevant federal agency generally, including on any compliance review or complaint investigation conducted by the Federal sponsoring agency or the County and on all grant monitoring requests, including requests related to desk reviews and/or site visits.

(B) Subrecipient shall maintain adequate records that enable the County and any relevant federal agency to complete monitoring tasks, including verifying all reporting measures, requests for reimbursements, and expenditure of ARPA Grant funds related to this Agreement. Subrecipient shall maintain such records as are deemed necessary by the County, the State Auditor's Office, other auditors of the State of Texas, the federal government, or such other persons or entities designated or authorized by the County to ensure proper accounting for all costs and performances related to this Agreement.

(C) [Reserved]

(D) If requested, Subrecipient shall submit to the County a copy of its most recent independent financial audit. If requested, Subrecipient shall submit to the County any audited financial statements, related management letters and management responses of grantee, and financial audit documents or portions thereof that are directly related to Subrecipient's performance of its obligations under this Agreement.

(E) In addition to the information contained in the required reports, other information may be required as requested by the County, including the County asking for more information regarding project performance or funds expenditures. In the event the County requires additional information regarding the information or data submitted, Subrecipient will promptly provide the additional information. Subrecipient also agrees to assist the County in responding to questions and assisting in providing information responsive to any audit, legislative request, or other inquiry regarding the ARPA Grant award. Upon the request of the County, Subrecipient must submit to the County any additional documentation or explanation the County may desire to support or document the requested payment or report submitted under this Agreement.

(F) If after a written request by the County or a relevant federal agency, Subrecipient fails to provide required reports, information, documentation, or other information within reasonable deadlines set by the County or the relevant federal agency, as required by this Agreement or fails to fulfill any requirement in this section, then the County may consider this act a possible default under this Agreement, and Subrecipient may be subject to sanctions including but not limited to, withholdings and/or other restrictions on Subrecipient's access to Grant funds; withholding reimbursements, referral to relevant agencies for audit review; designation of Subrecipient as a high-risk grantee; or termination of this Agreement.

8.5 Requirement to Address Audit Findings. If any audit, financial or programmatic monitoring, investigations, review of awards, or other compliance review reveals any discrepancies, inadequacies, or deficiencies which are necessary to correct in order to maintain compliance with this Agreement, applicable laws, regulations, or the Subrecipient's obligations hereunder, the Subrecipient agrees to propose and submit to the County a corrective action plan to correct such discrepancies or inadequacies within thirty (30) calendar days after the Subrecipient's receipt of the findings. Any corrective action plan by Subrecipient is subject to the approval of the County.

(a) Corrective Plans. The County, may impose remedies as part of a corrective action plan, including, but not limited to: increasing monitoring visits; requiring that additional or more detailed financial and/or programmatic reports be submitted; requiring prior approval for expenditures; and/or terminating this Agreement. The foregoing are not exclusive remedies, and the County may impose other requirements that the County determines will be in the best interest of the County.

(b) Duties of Subrecipient. Subrecipient understands and agrees that Subrecipient must make reasonable efforts to address and resolve all outstanding issues, findings, or actions identified by the County and/or, a relevant federal agency through the corrective action plan or any other corrective plan. Failure to address these findings promptly and adequately may result in future grant funds being withheld, or other related requirements being imposed. Subrecipient agrees to complete any corrective action approved by the County within the time specified by the County. Subrecipient shall provide to the County periodic status reports regarding Subrecipient's resolution of any audit, corrective action plan, or other compliance activity for which Subrecipient is responsible.

8.6 **Retention of Records**. All records, books, and documents reasonably related to this Agreement shall be maintained and kept by the City and County for a minimum of five (5) years and ninety (90) days after termination or expiration of this Agreement. If any litigation, claim, or audit involving these documents or records begins before the specified period expires, the City and County must keep the records and documents for not less than five (5) years and ninety (90) days and until all litigation, claims, or audit findings are resolved, whichever is later. The City and County each are strictly prohibited from destroying or discarding any records, books, or other documents reasonably related to this Agreement, unless the time period for maintaining such under this subsection has lapsed.

8.7 **Single Audit**. The Subrecipient acknowledges that by accepting the ARPA Grant it is a sub-recipient of federal financial assistance under the federal Single Audit Act of 1984, as amended (the "SAA"). The Subrecipient further acknowledges that to the extent it expends an aggregate of $750,000 in federal awards (including, but not limited to the Grant(s)) in a fiscal year, it will be subject to an audit under the SAA and its implementing regulations at 2 CFR Part 200, Subpart F.

8.9 **Equipment and Supplies**. Any purchase of equipment or real property with ARPA - SLFRF funds must be used for the original authorized purpose of the Grant, and as allowed under the Final Rule and Terms and Conditions of the Award and consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D, unless stated otherwise by Treasury. Subrecipient must ensure equipment purchased with ARPA funds is used for the purpose of the Grant and as allowed under the Final Rule and Terms and Conditions of the Award. Subrecipient must develop and implement a control system to prevent loss, damage or theft of property and investigate and document any loss, damage or theft of property funded under this Grant. Subrecipient must account for any real and personal property acquired with Grant funds.

Subrecipient will purchase and maintain any equipment and supplies procured under this Agreement in conformity with applicable federal and state laws, regulations, and rules affecting the purchase of these items with Grant funds.

(a) Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost of $5,000 or more. Any purchase of equipment must be consistent with the Uniform Guidance at 45 CFR Part 75, Subpart D. Equipment acquired under this program must be used for the originally authorized purpose. Consistent with 45 CFR 75.320, any equipment acquired using Grant funds shall vest in the non-federal entity. Any acquisition and maintenance of equipment must also be compliant with relevant laws and regulations. Subrecipient must receive prior approval for all equipment purchases.

(b) Subrecipient will maintain, repair, and protect equipment to assure its full availability and usefulness. Subrecipient will insure all equipment at its replacement value against any loss, destruction, or damage. In the event Subrecipient is indemnified, insured, reimbursed, or otherwise compensated for any loss of, destruction of, or damage to the equipment provided under this Agreement, it will use the proceeds solely for the repair or replacement of this equipment. Subrecipient shall not give any security interest, lien or otherwise encumber any item of equipment purchased with Grant funds.

(c) Subrecipient will attach a detailed, cumulative listing of equipment inventory to Subrecipient' s final request for Grant payment. If there have not been any equipment purchases paid for by funds from the County, Subrecipient will attach a statement to that effect. Subrecipient' s final billing for each Grant will not be accepted if this inventory or statement is not attached. Additionally, failure to include the inventory listing or statement may result in an audit finding on Subrecipient's monitoring review and/or delay of reimbursement. Audit findings may cause termination of Agreement for cause or suspension of payment of funds.

(d) If applicable when this Agreement terminates or expires, Subrecipient will execute any necessary documents to transfer title of any equipment purchased with funds from this Agreement to either the County, or any other party designated by the County; provided, however, that the County may at its option and to the extent allowed by law, transfer title of such property to Subrecipient.

9. CONFIDENTIALITY

9.1 Confidentiality and the Public Information Act. The City shall not disclose privileged or confidential communications or information acquired in the course of performing under this Agreement unless authorized by law. The City agrees to adhere to all confidentiality requirements, as applicable, for performance under this Agreement.

9.2 Public Information Act.

a) Public Information Act. The Parties acknowledge and agree that the County and the City are subject, as a matter of law, to the Texas Government Code, Chapter 552, also known as the "Texas Public Information Act" (hereinafter "**Public Information Act**"). Notwithstanding any other provision, the Parties agree that in the event that any provision of this Agreement, or other documents related to this Agreement, including, but not limited to, any exhibit, attachment, amendment, addendum, or other incorporated document, is in conflict with the Public Information Act, such provision shall be of no force or effect. Furthermore, it is expressly acknowledged and agreed that the County, County Commissioners Court, County Judge, Elected County Officials, County Department Heads and County Employees (hereinafter "County Requestors") may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any software, hardware, firmware, or any part thereof, or other equipment or item, data or information, or any other thing or item furnished to or in the possession or knowledge of the County. It is further acknowledged and agreed that the County Requestors have the right and obligation by law to rely on the advice, decisions and opinions of the Texas Attorney General.

b) Any Public Information Act request received by the City or the County for documents related to this Agreement or any program undertaken pursuant to this Agreement shall be handled by the entity that received the Public Information Act request.

c) Notwithstanding the foregoing, the Parties agree, to the extent permitted by the Public Information Act, to keep confidential (and store in a secure area with limited access) and will not copy, publish, sell, exchange, disclose, or provide to others or use any information, documents or data, provided to or disclosed to the other Party, or any information related to this Agreement, including, but not limited to, any exhibit, attachment, amendment, addendum, or other incorporated document, for any purposes other than performing each Party's obligations under this Agreement.

9.3 Exclusions from confidential information: confidential information shall not be deemed to include information that the other Party can demonstrate by competent written proof:

(i) is now, or hereafter becomes, publicly known or available through no act or failure to act on the part of the other Party;

(ii) was known by the other Party at the time of receipt of such information as evidenced by its records;

(iii) is hereafter furnished to the other Party by a third party as a matter of right and without violating any confidentiality obligation to the disclosing Party; or

(iv) was independently developed by employees of the other Party without use or knowledge of the Confidential Information of the disclosing Party.

10. LIABILITY

THE COUNTY AND THE CITY, INCLUDING THEIR RESPECTIVE EMPLOYEES, ELECTED OFFICIALS, AGENTS, AND SUBCONTRACTORS, AGREE THAT EACH SHALL BE RESPONSIBLE FOR ITS OWN NEGLIGENT ACTS OR OMISSIONS OR OTHER TORTIOUS CONDUCT IN THE COURSE OF THE PERFORMANCE OF THIS AGREEMENT, WITHOUT WAIVING ANY SOVEREIGN IMMUNITY,

GOVERNMENTAL IMMUNITY, OR DEFENSES AVAILABLE TO COUNTY OR CITY UNDER FEDERAL, TEXAS AND OTHER APPLICABLE LAWS. THE PARTIES AGREE THAT ANY SUCH LIABILITY OR DAMAGES OCCURRING DURING THE PERFORMANCE OF THIS AGREEMENT CAUSED BY THE JOINT OR COMPARATIVE NEGLIGENCE OF THE PARTIES, OR THEIR EMPLOYEES, ELECTED OFFICIALS, APPOINTED OFFICIALS, AGENTS, OFFICERS, OR SUBCONTRACTORS, SHALL BE DETERMINED IN ACCORDANCE WITH COMPARATIVE RESPONSIBILITY LAWS OF TEXAS. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, IN OR TO ANY THIRD PERSONS OR ENTITIES.

11. INSURANCE

The Parties agree they will, at all times during the Term of this Agreement, maintain in full force and effect insurance or self-insurance to the extent permitted by applicable laws, and that is maintained at appropriate levels of insurance commensurate with each Party's obligations hereunder and in accordance with sound accounting practices. The City and the County will be responsible for their respective costs of such insurance, any and all deductible amounts in any policy and any denials of coverage made by their respective insurers. Notwithstanding the requirements of Exhibit J, the City and County acknowledge the following description of City's self-insurance is adequate for the requirements of this Agreement. Subrecipient is self-insured for Workers' Compensation insurance provided by Chapter 502 of the Texas Labor Code. Benefits are provided in accordance with the provisions of that law. The liability of City for personal injury and property damage is controlled by the Texas Tort Claims Act, V.T.C.A. Civil Practice and Remedies Code, Chapter 101, Section 101.021. The limits of liability are $250,000 for each person, $500,000 for each single occurrence for bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property. Following this limited exposure, the City, as a state agency, is protected by the doctrine of sovereign immunity, and as such, is self-insured up to the limits.

The City will require all subcontractors providing services under this Agreement to have standard insurance sufficient to cover the needs of the subcontractor pursuant to applicable generally accepted business standards and as set forth in Exhibit J - Insurance Requirements, attached hereto and incorporated in full. Depending on services provided by a subcontractor, supplemental insurance requirements or alternate insurance options, as set forth in the attached exhibit J and incorporated herein, may be imposed by the County.

12. EXPENSES

Unless prior written approval by the County is obtained or otherwise detailed in this Agreement, the City shall be responsible for all mileage and other miscellaneous expenses related to the fulfillment of the requirements of this Agreement.

13. TERMINATION

13.1 Termination. The City or County, at its option and without prejudice to any other remedy to which it may be entitled to at law or in equity, or elsewhere under this Agreement, may terminate this Agreement, in whole or part, by giving thirty (30) days prior written notice thereof to the other party with the understanding that all services being performed under this Agreement shall cease upon the date specified in such notice. In the event of cancellation, the City shall cease any and all services under this Agreement or disbursement of funds on the date of termination and to the extent specified in the notice of termination. Upon receipt of such notice, the City shall not incur any new obligations or perform any additional services and shall cancel any outstanding obligations or services to be provided. Upon termination of this Agreement, as herein above provided, any and all unspent funds that were paid or provided by the County to the City under this Agreement and any and all County data, documents and information in the City's possession shall be returned to the County not later than ten (10) working days after the date of termination, which obligation shall survive the termination of this Agreement. In no event shall the County's termination of this Agreement, for any reason, subject the County to liability. Notwithstanding anything to the contrary herein, if the County terminates this Agreement pursuant to this Section 13, whether such termination is with or without cause, the County shall remain obligated to pay the City for costs for services for which the City is contractually obligated to pay third parties in accordance with contracts effective prior to the date the County provided notice of termination to the City, but only to the extent (i) the City is unable to avoid such contractual obligations by timely terminating such third party contracts and (ii) such costs would have otherwise been eligible for reimbursement pursuant to this Agreement.

(a) Without Cause: This Agreement may be terminated, in whole or in part, without cause, by either party upon thirty (30) days' prior written notice to the other party.

(b) With Cause: The City and County reserve the right to terminate this Agreement immediately, in whole or in part, at the terminating party's sole discretion, for the following reasons:

(i) Lack of, or reduction in, funding or resources in accordance with Section 28 (Fiscal Funding Clause);

(ii) Non-performance by the other party or the other party's failure or inability to perform or substantially perform, for whatever reason, the services required or funds to be disbursed under this Agreement;

(iii) The City's improper use or misuse of ARPA Grant funds under this Agreement;

(iv) The City's or County's failure to comply with the terms and provisions of this Agreement;

(v) The City submission of invoices, data, statements and/or reports that the City knew were incorrect, incomplete, or false in any way;

(vi) The City's failure to comply with the County's reporting requirements, the program objectives, the terms, conditions, or standards of this Agreement, applicable federal, state, or local laws, rules, regulations and ordinances, or any other requirement set forth in this Agreement;

(vii) The City's failure to perform the work and services required by this Agreement within the time specified herein or any extension thereof; and/or

(viii) The City's or County's inability to perform under this Agreement due to judicial order, injunction or any other court proceeding.

14. NOTICE

All notices, correspondence, requests, demands and other communications contemplated, called for, permitted, or required to be given under this Agreement shall be in writing, and will be deemed given on (a) the third business day after being deposited in the United States mail, postage prepaid, sent by certified or registered mail, return receipt requested; (b) the first business day after being sent overnight by a recognized national overnight courier service; or (c) on the date personally delivered, with signed acceptance thereof by the person designated below in either case properly addressed to the other party at the address set forth below, or at such other address as such party will specify from time to time by written notice delivered in accordance herewith:

TO THE COUNTY:

Clay Lewis Jenkins
Dallas County Judge
500 Elm Street, Suite 7-G07
Dallas, Texas 75202

And

Luis Tamayo
Director of Economic Development and Planning
500 Elm Street, Suite 3100
Dallas, Texas 75202

Commissioners Court Administration
Attn: Darryl Martin
500 Elm Street, Suite 7600
Dallas, Texas 75202

With a copy to:
Barbara Nicholas
Chief, Civil Division
Dallas County District Attorney's Office
500 Elm Street, Suite 6300
Dallas, Texas 75202

TO THE CITY:

City of Farmers Branch
Attn: City Manager
13000 William Dodson Parkway
Farmers Branch, Texas 75234

With copy to: Nichols, Jackson, Dillard, Hager & Smith, LLP
Attn: David M. Berman
500 N. Akard, Suite 1800
Dallas, Texas 75201

15. SEVERABILITY

If any provision of this Agreement is construed to be illegal or invalid, it will not affect the legality or validity of any of the other provisions in this Agreement. The illegal or invalid provision will be deemed stricken and deleted, but all other provisions shall continue and be given effect as if the illegal or invalid provisions had never been incorporated.

16. SOVEREIGN AND GOVERNMENTAL IMMUNITY

This Agreement is expressly made subject to the County's Sovereign Immunity, Title 5 of the Texas Civil Practices and Remedies Code and the City's governmental immunity, and all applicable federal and state law. The Parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability that the County or the City has by operation of law.

17. COMPLIANCE WITH LAWS

In providing services required by this Agreement, the City and County must observe and comply with all applicable federal, state, and local statutes, ordinances, rules, and regulations including, the Award Terms, Interim Final Rule, Final Rule, SLFRF Program Amendments, and Compliance & Reporting Guidelines to the extent applicable, when using and disbursing ARPA Funds to recipients or when seeking reimbursement from the County. The City and County shall be responsible for ensuring its compliance with any laws and regulations applicable to its operations and functions.

18. GOVERNING LAW AND VENUE

The validity and interpretation of this Agreement, and the rights and obligations of the Parties hereunder, shall be governed by and construed in accordance with the laws of the State of Texas and any applicable guidance from the Federal Government or Federal Agency. This Agreement is performable and enforceable in Dallas County, Texas where the principal offices of the County and the City are located and the state or federal courts of Dallas County shall be the sole and exclusive venue for any litigation, special proceeding, or other proceeding as between the Parties that may be brought, or arise out of, in connection with, or by reason of this Agreement.

19. AMENDMENTS AND CHANGES IN THE LAW

No modification, amendment, novation, renewal, or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the Parties. Any alteration, addition, or deletion to the terms of this Agreement which are required by changes in federal law, federal guidance, or state law are automatically incorporated herein without written amendment to this Agreement and shall be effective on the date designated by said law or guidance.

20. THIRD PARTIES

The obligations of each Party to this Agreement shall inure solely to the benefit of the other Party, and no other person or entity shall be a third party beneficiary of this Agreement or have any right to enforce any obligation created or established under this Agreement.

21. ASSIGNMENT

The City may not assign its rights and duties under this Agreement. Any assignment attempted shall be null and void.

22. CONTRA PROFERENTUM

The doctrine of contra proferentum shall not apply to this Agreement. If an ambiguity exists in this Agreement, the Agreement shall not be construed against the Party who drafted the Agreement or the applicable provision of this Agreement, and such Party shall not be responsible for the language used.

23. ENTIRE AGREEMENT

This Agreement, including its Attachments, Exhibits, Addenda, and any documents referenced herein are incorporated as a part hereof, shall constitute the entire agreement relating to the subject matter hereof between the Parties and supersedes any other agreement concerning the subject matter of this transaction, whether oral or written, and except as otherwise provided herein, this Agreement may not be modified without prior written agreement of the Parties. Each Party acknowledges that the other Party, or anyone acting on behalf of the other Party has made no representations, inducements, promises or agreements, orally or otherwise, unless such representations, inducements, promises or agreements are embodied in this Agreement, expressly or by incorporation.

24. BINDING EFFECT

This Agreement and the respective rights and obligations of the Parties hereto shall inure to the benefit and be binding upon the successors and assigns of the Parties hereto, as well as the Parties themselves.

25. REMEDIES/WAIVER OF BREACH

Pursuit of any remedy provided in this Agreement shall not preclude pursuit of any other remedies herein provided or any other remedies provided by law or equity, including injunctive relief, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any obligation of the defaulting Party hereunder or of any damages accruing by reason of the violation of any of the terms, provisions, and covenants herein contained. No waiver of any term, covenant, condition, or violation of this Agreement shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions, and covenants herein contained, and forbearance to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. Any waiver of any provision of this Agreement or violation thereof must be by a written instrument.

26. DEFAULT/CUMULATIVE RIGHTS/MITIGATION

It is not a waiver of default if the non-defaulting Party fails to immediately declare a default or delays in taking any action. The rights and remedies provided by this Agreement are cumulative, and either Party's use of any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the Parties may have by law, statute, ordinance or otherwise. The City and the County both have a duty to mitigate damages.

27. PREVENTION OF FRAUD AND ABUSE

The City shall establish, maintain, and utilize internal management procedures sufficient to provide for the proper, effective management of all activities funded under this Agreement. Any known or suspected incident of fraud or program abuse involving the City's employees or agents and relating to this Agreement shall be reported immediately to the County by the City. Moreover, the City warrants that it is not listed on a local, county, state or federal consolidated list of debarred, suspended and ineligible contractors and grantees. The Parties agree that every person who, as part of their employment, receives, disburses, handles or has access to funds collected pursuant to this Agreement does not participate in accounting or operating functions that would permit them to conceal accounting records and the misuse of said funds. The City shall, upon written notice by the County, refund funds paid by the County to the City to reimburse the City for the City's expenditures that are contrary to this Agreement and deemed inappropriate by the County.

28. FISCAL FUNDING CLAUSE

Notwithstanding any provisions contained herein, the obligations of the County under this Agreement is expressly contingent upon the availability of funding for each item and obligation contained herein for the term of the Agreement and any extensions thereto. The County acknowledges that as of the effective date of this Agreement, it has received sufficient funding from the federal government to satisfy its obligations under this Agreement . The City shall have no right of action against the County in the event the County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future fiscal years. In the event the County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, the County, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice to the City at the earliest possible time, subject to its obligations under section 13.2 hereof.

29. COUNTERPARTS, NUMBER/GENDER, AND HEADINGS

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Words of any gender used in this Agreement shall be held and construed to include any other gender. Any words in the singular shall include the plural and vice versa, unless the context clearly requires otherwise. Headings herein are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

30. INDEPENDENT CONTRACTOR

The City, including its employees, agents, or licensees, is an independent contractor and not an agent, servant, joint enterprise, or employee of the County, and is responsible for its own acts, omissions, forbearance, negligence, and deeds, and for those of its agents or employees in conjunction with the performance of services or disbursement of funds covered under this Agreement, and shall be specifically responsible for sufficient supervision and inspection to ensure compliance in every respect with the contract requirements. There shall be no contractual relationship between any subcontractor, agent, employee, or supplier of the City and the County by virtue of this Agreement.

31. SUBCONTRACTING

The costs of all subcontracted services are included in the ARPA Grant funds distributed to the City herein. Subcontracts entered into by the City will be in writing and subject to all requirements herein. The City agrees that it will solely be responsible to the County for the performance of this Agreement. The City shall pay all subcontractors, vendors, contractors and materials/equipment/service providers in a timely manner. The County shall have the right to prohibit the City from using any subcontractor, vendor, contractor or materials/equipment/service provider only if notice of disapproval is given by County to City prior to the City's contractual engagement with the subcontractor, vendor, contractor or materials/equipment/service provider.

This Agreement sets out the agreements and obligations between the County and Subrecipient onlyand does not obligate the County in any way to any of Subrecipient's Subcontractors, nor to any other third party. This Agreement creates no third-party beneficiary rights as between the County and any of Subrecipient's Subcontractors or any other party. Subrecipient has the sole responsibility for payment for services rendered by Subcontractors. The County will not under any circumstances be liable to Subrecipient's creditors or Subcontractors for any payments, or obligation arising under this Agreement. Subrecipient agrees to include notice of the requirements in this section in every Subcontractor agreement.

32. PROMPT PAYMENT ACT

The City agrees that a temporary delay in making payments due to the County's accounting and disbursement procedures shall not place the County in default of this Agreement and shall not render the County liable for interest or penalties, provided such delay shall not exceed thirty (30) days after receipt of the City's submission of invoices, bills or draw requests. Any payment not made within thirty (30) days of receipt of the City's request for payment shall bear interest in accordance with Chapter 2251 of the Texas Government Code.

33. TAX

Dallas County, as a county of the State of Texas, is exempted from the payment of Texas state and local sales, excise, and use taxes pursuant to Tex. Loc. Gov't Code § 151.309, and shall therefore not be liable or responsible to the City for the payment of such taxes under this Agreement.

34. COUNTERPARTS, ELECTRONIC SIGNATURES, NUMBER, GENDER AND HEADINGS

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature. Words of any gender used in this Agreement shall be held and construed to include any other gender. Any words in the singular shall include the plural and vice versa unless the context clearly requires otherwise. Headings herein are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

35. ASSURANCES, REPRESENTATIONS, AND CERTIFICATIONS OF SUBRECIPIENT

35.1 Subrecipient assures and represents that any funding under this Agreement will not be used to supplant private, state, local, or other federal funds.

35.2 Subrecipient understands and acknowledges that this Agreement may be totally or partially funded with federal and/or state funds. As a condition of receiving these funds, Subrecipient represents that it is and will remain in compliance with all federal and state requirements as stated in **Exhibit H - Code of Federal Regulations – Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**.

35.3 Subrecipient assures and represents that the person signing this Agreement on behalf of Subrecipient is authorized to execute this Agreement on Subrecipient's behalf and to legally bind Subrecipient to the terms of this Agreement.

35.4 Subrecipient assures that it will not expend funds from this Agreement to lobby Congress, the legislature, or any governmental agency.

35.5 Subrecipient assures that it does not and will not discriminate against any person on the grounds of race, creed, color, handicap, national origin, gender, sexual orientation, political affiliation, religion, or disability.

35.6 Subrecipient assures that it will comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement.

35.7 Additionally, the Parties agree to comply with Dallas County's **Title VI Nondiscrimination Assurances and Compliance**, which is attached hereto as **Exhibit F** and incorporated herein by reference.

35.8 Subrecipient assures that it will comply with all requirements and guidelines outlined in 603(c) of the Social Security Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

35.9 Subrecipient assures that this Agreement will not be transferred, or otherwise assigned, or any interest in or any right, duty, or obligation under, or any claim arising under, without first obtaining the prior written approval from County.

35.10 To the extent applicable to Subrecipient, Subrecipient assures that it is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization. Subrecipient assures that it is duly qualified to do business and is in good standing in each jurisdiction in which it conducts business and is required to do so to qualify except where failure to do so is permitted by law.

35.11 Subrecipient is registered with the System for Award Management (SAM) and confirms that the Data Universal Numbering System (DUNS) and/or Universal Entity ID (SAM or UEI) number listed in Exhibit E is the correct such number for the Subrecipient as of the date hereof.

35.12 In providing services required by this Agreement, Subrecipient agrees to observe and comply with all Grant requirements, licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials, and all applicable federal, state, and local statutes, ordinances, rules, and regulations. Subrecipient's failure to comply with this assurance shall be treated as a default and/or breach of this Agreement.

35.13 Subrecipient, by acceptance of the terms of this Agreement, agrees and ensures that personnel providing the services hereunder are duly licensed and/or qualified to perform the required services. Subrecipient further agrees and ensures that all program and/or facility licenses or permits necessary to perform the required services are current and that County will be notified immediately if such licenses or permits become invalid during the Term of this Agreement.

35.14 Subrecipient agrees to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.

35.15 Subrecipient shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations and non-discrimination laws and regulations. When required, Subrecipient shall furnish County satisfactory proof of compliance therewith.

35.16 To the extent applicable, Subrecipient certifies that it is not aware of any conflicts of interest involving any Dallas County official or employee related to this Agreement or the services provided under this Agreement.

35.17 To the extent applicable, Subrecipient certifies that it is not currently involved, either directly or indirectly, with any litigation against or involving Dallas County.

35.18 Subrecipient will develop and implement a drug free workplace policy. Subrecipient will also require that all contracts between itself and subcontractors also comply with said requirements.

35.19 Subrecipient and County understand that reimbursement for costs under this Agreement shall be in accordance with all applicable federal rules, regulations, cost principles, and other requirements relating to reimbursement.

35.20 To the extent applicable, Subrecipient, by executing this Agreement, hereby certifies that it is not delinquent in its Texas franchise tax payments, or that it is exempt from, or not subject to such a tax. A false statement concerning the Subrecipient's franchise tax status shall constitute grounds for termination of this Agreement at the sole option of the County.

35.21 To the extent applicable, Subrecipient certifies to County that Subrecipient is not delinquent on the repayment of any federal, state, or local debt or other obligation.

35.22 To the extent applicable, Subrecipient certifies that neither it nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal, state, or local department or agency.

35.23 Subrecipient shall pay all subcontractors, vendors, contractors or materials/equipment/service provider in a timely manner. The County shall have no liability to any subcontractors in the event Subrecipient does not pay or delays payment to any subcontractors. At the completion of each Qualified Housing project, and expiration of this Agreement, Subrecipient shall deliver to the County an affidavit of all bills paid. Final payment shall be contingent upon receipt of such affidavits as resolution of all accounting for which the County is or may be liable under this Agreement.

35.24 Failure to comply with any of these assurances or any other requirements specified within this Agreement will put Subrecipient or County, as applicable, in default and/or breach of this Agreement and may result in the disallowance of funds and the withholding of future awards or termination of this Agreement in addition to any other remedies permitted by law.

35.25 Subrecipient agrees to adhere to confidentiality requirements for the services performed for the County under this Agreement, and any other confidentiality provisions or laws, whether federal or state, relating to the services being providing hereunder.

35.26 [Reserved]

35.27 [Reserved]

35.28 Subrecipient agrees to comply with all applicable laws and regulations set forth in the *U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions signed May 12, 2021*, which is attached hereto as Exhibit A.

35.29 Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Subrecipients who apply or bid for an award of $100,000 or more shall file the required certification attached to this Agreement as Exhibit "G" - Appendix A, 44 C.F.R Part 18 "Certification Regarding Lobbying." Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

35.30 Program Fraud and False or Fraudulent Statements or Related Acts. The Subrecipient acknowledges that 31 U.S.C. Ch. 38 (Administrative Remedies for False Claims and Statements) applies to the Subrecipient's actions pertaining to this Agreement.

35.31 Subrecipient acknowledges and recognizes that the source of the ARPA Funds is the allocation that the County received from the U.S Department of the Treasury through the American Rescue Plan Act.

35.32 Subrecipient acknowledges and agrees that Subrecipient receives the ARPA Funds from the County as a subrecipient. As a subrecipient of ARPA Funds, Subrecipient acknowledges that its use of ARPA Funds is subject to the same terms and conditions as the County's use of such funds and the terms and conditions of this Agreement.

35.33 To the extent applicable, Subrecipient acknowledges and agrees to require that all subcontractors, vendors, contractors or materials/equipment/service providers comply with the applicable provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704, as supplemented by the Department of Labor regulations (29 CFR Part 5).

35.34 Subrecipient hereby certifies that it will comply with all applicable "Anti-Kickback" Laws (including (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3), and shall insert appropriate provisions in all subcontracts covering work under this Agreement.

35.35 Subrecipient expressly represents and certifies that neither Subrecipient nor its employees or associates has directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competition in conjunction with this Agreement. This paragraph does not however, preclude two or more supplier of certain parts of the requirements from presenting a combined or joint proposal for the purpose of providing a complete Proposal.

35.36 No person (1)who is an employee, agent, consultant, officer, or official of the Subrecipient and who exercises or has exercised any functions or responsibilities with respect to assisted contract activities; or (2) who is in a position to participate in a decision making process or gains inside information with regard to such activities, may obtain a personal or financial interest or benefit, direct or indirect, in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure.

36. CERTAIN STATE LAW REQUIREMENTS FOR CONTRACTS

36.1 Texas Government Code, Chapter 2252 Certification. In accordance with Texas Government Code, Chapter 2252, Subrecipient represents and certifies that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

36.2 Entities that Boycott Israel. As required by Texas Government Code, Section 2271.002, Subrecipient certifies, by executing this Agreement that it does not boycott Israel and will not boycott Israel during the term of this Agreement and any renewal period.

36.3 Boycott of Energy Companies Prohibited: Pursuant to Texas Government Code § 2274.002, Subrecipient verifies that: (1) it does not, and will not for the duration of the Agreement, boycott energy companies or (2) it is exempt from the verification regarding boycott of energy companies.

36.4 Discrimination against Firearm Entities or Firearm Trade Associations Prohibited. Pursuant to Texas Government Code § 2274 Subrecipient verifies that: (1) it does not, and will not for the duration of the Agreement, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) it is exempt from the verification regarding discrimination against firearm entities or firearm trade associations.

37. CONFLICT OF INTEREST

No County official or employee shall have any financial interest, direct or indirect, in any contract with the County or be financially interested, directly or indirectly, in the sale to the County of any land, materials, supplies or services, except on behalf of the County as an official or employee. Any violation of this Section, with knowledge, express or implied, of the person or corporation contracting with the County shall render this Agreement involved voidable by the Commissioners Court of Dallas County. It is the responsibility of Subrecipient during all phases of this Agreement to notify the County in writing of any potential conflict of interest. Subrecipient covenants that neither it nor any member of its organization presently has any interest or shall acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement. Subrecipient further covenants that in the performance of this Agreement no person having such interest shall be employed or appointed by the Subrecipient.

38. CONFLICT OF INTEREST QUESTIONNAIRE (CIQ) FORM

To the extent applicable, the Subrecipient assures that it will require all subcontractors, vendors, contractors or materials/equipment/service providers to be in compliance with the requirements of Chapter 176 of the Texas Local Government Code and has filed (or will file) the CIQ form with the Dallas County records administrator no later than the 7th business day after the date the Subrecipient becomes aware of facts that require the form to be filed. Completed forms are to be sent to the Dallas County Clerk at 500 Elm Street, Suite 2100 Dallas, Texas 75202.

39. CERTIFICATE OF INTERESTED PARTIES – FORM 1295

To the extent applicable, Subrecipient acknowledges and agrees that it has fully, accurately, and completely disclosed all interested parties on the attached Form 1295 and has acknowledged the completeness of this disclosure by filing Form 1295, attached as Exhibit "I", with the Texas Ethics Commission as required by law.

40. SIGNATORY WARRANTY

The undersigned signatories for the Parties hereby represent and warrant that they are officers of their respective organizations for which they have executed this Agreement and that they have full and complete authorities to enter into this Agreement on behalf of their respective organizations and that the executions thereof are the acts of the Parties involved and have been delivered and constitute legal, valid, and binding obligations of the respective Parties.

41. ACCEPTANCES

By their signatures below, the duly authorized representatives of Dallas County and the City of Farmers Branch accept the terms of this Agreement in full.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURES ON THE FOLLOWING PAGE]

The City of Farmers Branch has executed the Agreement pursuant to duly authorized City Council Resolution ___________, dated the _____ day of _________, 2024.

The County of Dallas, State of Texas, has executed this Agreement pursuant to Commissioners Court Order Number _________ and passed on the ______ day of _________, 2024.

APPROVED AS TO FORM:

By: ______________________________
David M. Berman, City Attorney

CITY OF FARMERS BRANCH

By: ______________________________
Benjamin W. Williamson, City Manager

ATTEST:

By: _
Stacy Henderson, City Secretary

DALLAS COUNTY, TEXAS:

BY______________________________
Clay Lewis Jenkins,
County Judge

RECOMMENDED:

By: ______________________________
Luis Tamayo, Director Economic Development and Planning

By: ______________________________
Jonathon Bazan, Assistant County Administrator

APPROVED AS TO FORM*:
JOHN CREUZOT
DISTRICT ATTORNEY

BARBARA NICHOLAS, CHIEF CIVIL DIVISION

By:______________________________
Tina R. Patel
Assistant District Attorney

*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

EXHIBIT A

U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions signed May 12, 2021 ("AWARD TERMS")