

THE STATE OF TEXAS  
COUNTY OF DALLAS

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FARMERS BRANCH CORONAVIRUS FISCAL  
RECOVERY FUND GRANT AGREEMENT

This agreement (“Agreement”) is made and entered into as of the Effective Date by and between the City of Farmers Branch, Texas (the “City”), and Metrocrest Services, Inc. (the “Metrocrest”) (City and Metrocrest collectively referred to hereafter as the “Parties” or individually as a “Party”), acting by and through their authorized representatives.

**WITNESSETH:**

**WHEREAS**, Section 9901 of the American Rescue Plan Act of 2021 (“ARPA”) added section 603(a) to the Social Security Act, which created the Coronavirus State and Local Fiscal Recovery Fund (“CSLFRF”) to provide funding to state and local governments to facilitate the ongoing recovery from the COVID-19 pandemic (“Fiscal Recovery Funds”); and

**WHEREAS**, the City is the recipient of Fiscal Recovery Funds through the State of Texas (the “State”) in accordance with the provisions of ARPA; and

**WHEREAS**, following the enactment of ARPA, the U.S. Department of the Treasury (the “Treasury”) released formal and informal guidance regarding the implementation of ARPA, including the disbursement and expenditure of Fiscal Recovery Funds, including the Treasury Interim Final Rule, 31 CFR pt. 35, 2021, and informal guidance made publicly available by the Treasury, which may be amended, superseded, or replaced during the term of this Agreement (“Treasury Guidance”); and

**WHEREAS**, ARPA and Treasury Guidance provide that Fiscal Recovery Funds may be used for eligible expenses, which includes expenses incurred to respond to the COVID-19 pandemic or its negative economic impacts, including assistance to households and nonprofits; and

**WHEREAS**, Metrocrest is a Texas nonprofit corporation established under the laws of the State of Texas for the purpose of providing food and housing assistance and information and referral service regarding available social services for people living in the City and surrounding cities; and

**WHEREAS**, the economic impacts of the COVID-19 pandemic have created an increase in demand for social services and financial strain on the ability of Metrocrest to provide the necessary social services for the residents of the City; and

**WHEREAS**, Metrocrest intends to design, develop, and implement the Home Rehabilitation Program to provide Accessibility Assistance, Emergency Repair Assistance, and Exterior Repair Assistance to Eligible Homeowners (defined herein); and

**WHEREAS**, Metrocrest intends to design, develop, and build the Community Support Facility, to consolidate operations and to improve the accessibility, capacity, and ability of Metrocrest to serve citizens of the City that seek quality of life assistance; and

**WHEREAS**, City desires to provide a Home Rehabilitation Program Grant and a Community Support Facility Grant not to exceed the amounts set forth herein to Metrocrest as a sub-recipient of Fiscal Recovery Funds to respond to the negative economic impacts due to the COVID-19 pandemic; and

**NOW THEREFORE**, in consideration of the mutual covenants set forth herein, and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE I**  
**DEFINITIONS**

“Accessibility Assistance” shall mean assistance to Eligible Homeowners, who are disabled and/or elderly, for structural modifications related to mobility, including, but not limited to, ramp construction, doorway widening, bathroom retrofitting with ADA-compliant fixtures.

“Commencement of Construction” shall mean that: (i) the Plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Community Support Facility; (ii) all necessary permits for the construction of the Community Support Facility pursuant to the respective Plans therefore have been issued by all the applicable governmental authorities; and (iii) construction of the Community Support Facility has commenced.

“Community Support Facility” shall mean construction of an approximately forty-eight thousand (48,000) square foot facility within the City of Carrollton, Texas in accordance with the Plans and this Agreement.

“Community Support Facility Grant” shall mean a Fiscal Recovery Funds grant in the amount of Five Hundred and Sixty Thousand and 00/100 Dollars (\$560,000.00), to be paid by the City to Metrocrest in two (2) installments as set forth herein.

“Eligible Homeowner” shall mean a citizen of the City of Farmers Branch, Texas, who owns a residence in Farmers Branch, has suffered economic or public health impact due to the COVID-19 pandemic, and is either above the age of sixty-five (65+) or who is disabled in accordance with the Americans with Disabilities Act (“ADA”).

“Emergency Repair Assistance” shall mean assistance to Eligible Homeowners for home repairs necessary for health and safety, including, but not limited to, failed plumbing fixtures, clogged/broken sewer lines, damaged or exposed electrical wiring, damaged or broken electrical switches or outlets, leaking roofs, or damaged or broken air conditioning or heating units.

“Expiration Date” shall mean December 31, 2024.

“Exterior Repair Assistance” shall mean assistance to Eligible Homeowners who have received a notice of violation or citation from the City’s Community Services Departments Code Enforcement Division and who do not have the financial resources to comply with City Code of Ordinances requirements regarding the notice of violation or citation.

“Grants” shall collectively mean the Home Rehabilitation Program Grant and the Community Support Facility Grant.

“Home Rehabilitation Program” or “HRP” shall mean support and direct services to Eligible Homeowners through Accessibility Assistance, Emergency Repair Assistance, or Exterior Repair Assistance.

“Home Rehabilitation Program Grant” shall mean a Fiscal Recovery Funds grant in the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00), to be paid by the City to Metrocrest in one (1) installment for the administration of the HRP under the terms as set forth herein.

“Payment Request” shall mean a written request from the Company to the City for payment of the Grant.

“Permit Fee Waiver” shall mean the waiver of City building permit fees related to Home Rehabilitation Program.

“Plans” shall mean the plans for the Community Support Facility to be approved by the City.

## ARTICLE II TERM; TERMINATION

2.01 Term. This Agreement shall be effective upon date of last execution by the Parties (“the Effective Date”) and shall continue until the Expiration Date, unless terminated sooner as provided herein.

2.02 Termination. This Agreement may be terminated by either party, with or without cause, by giving the other party thirty (30) days prior written notice. In the event of termination by the City, Metrocrest shall pay to City an amount equal to the Grants previously paid by City to Metrocrest immediately preceding the date of such termination within five (5) business days of the date of such termination. The repayment obligation of Metrocrest set forth in this section 1.2 hereof shall survive termination.



**ARTICLE III**  
**HOME REHABILITATION PROGRAM GRANT**

3.01 Home Rehabilitation Program Grant. Subject to the continued satisfaction of all the terms and conditions of this Agreement by Metrocrest, and the obligation of Metrocrest to repay the Grants pursuant to this Agreement, City agrees to provide Metrocrest with the Home Rehabilitation Program Grant in the amount of Fifty Thousand and 00/100 dollars (\$50,000.00) to be paid within thirty (30) days of the Effective Date.

3.02 Home Rehabilitation Program Requirements. (a) Metrocrest agrees to use the Home Rehabilitation Program Grant to respond to the negative economic impacts due to the COVID-19 pandemic to develop, implement, and administrate assistance to citizens of the City of Farmers Branch, Texas, who are Eligible Homeowners, for home repairs necessary to improve the quality of life of such Eligible Homeowner through the HRP. Metrocrest agrees that the Home Rehabilitation Program Grant will be used solely for the development, implementation, and administration of the HRP.

(b) Metrocrest agrees that the HRP will be developed and implemented to provide assistance to Eligible Homeowners subject to the following conditions:

- (i) Provide for financial assistance, through the provision of labor and/or materials, for Accessibility Assistance, Emergency Repair Assistance, and Exterior Repair Assistance for the Eligible Homeowner's residence and not direct cash transfers;
- (ii) Provide for a maximum assistance amount not to exceed Five Thousand and 00/100 Dollars (\$5,000.00) for any one Eligible Homeowner;
- (iii) Ensure that Eligible Homeowners meet qualifications including, but not limited to:
  - 1. Income eligibility requirements as determined by Metrocrest;
  - 2. Receive assistance for property located within the incorporated limits of the City of Farmers Branch which serves as the Eligible Homeowner's primary residence.
  - 3. Provide a tax certificate showing the current, non-delinquent, status of property taxes;
  - 4. Provide proof of homeowner's insurance; and
  - 5. Provide proof of residency at the property for at least three (3) consecutive years prior to application;
- (iv) Ensure that Eligible Homeowners have not received assistance under the HRP within the preceding three (3) years;
- (v) Ensure that the Home Rehabilitation Program Grant is not used to pay insurance deductibles; and
- (vi) Provide that Eligible Homeowners are not to receive funds from the Home Rehabilitation Program Grant for repairs generally covered by the insurance policy provided by the Eligible Homeowner except when such repair is only partially covered by such insurance policy, provided that:

1. The Eligible Homeowner signs over the insurance claim payment(s) to Metrocrest prior to funds being provided or repairs being conducted under the HRP and Metrocrest deposits the insurance claim payment(s) received from the Eligible Homeowner into an escrow account; or
  2. If Eligible Homeowner has already spent any insurance claim payment(s), Eligible Homeowner must provide detailed documentation of repairs conducted and proof of payment for a determination by Metrocrest of eligibility under the HRP; and
- (vii) If the Eligible Homeowner has expended insurance proceeds, proof of payment and detailed documentation of repairs is provided to Metrocrest to determine eligibility under the HRP.

3.03 Permit Fee Waiver. Subject to the continued satisfaction of all the terms and conditions of this Agreement by Metrocrest, City agrees to provide Eligible Homeowners the Permit Fee Waiver.

3.04 Administration Fee. Metrocrest may retain a fee, in an amount not to exceed ten percent (10%) of the Home Rehabilitation Program Grant, for cost associated with administering the HRP.

#### ARTICLE IV COMMUNITY SUPPORT FACILITY GRANT

4.01 Community Support Facility Grant. (a) Subject to the continued satisfaction of all the terms and conditions of this Agreement by Metrocrest, and the obligation of Metrocrest to repay the Grants pursuant to this Agreement, City agrees to provide Metrocrest with the Community Support Facility Grant to be paid in two (2) installments as set forth herein.

(b) First Installment. The first installment of the Community Support Facility Grant in the amount of One Hundred and Ten Thousand and 00/100 Dollars (\$110,000.00) shall be paid by the City to Metrocrest within thirty (30) days of the Effective Date.

(c) Second Installment. The second installment of the Community Support Facility Grant in the amount of Four Hundred and Fifty Thousand and 00/100 Dollars (\$450,00.00) shall be paid by the City to Metrocrest within thirty (30) days after receipt of a Payment Request following (i) October 1, 2022, and (ii) the Commencement of Construction. Failure to submit the Payment Request for the Second Installment by December 31, 2022, shall operate as a forfeiture of the payment of the Second Installment.

4.02 Community Support Facility Requirements. (a) Metrocrest agrees to use the Community Support Facility Grant to respond to the negative economic impacts due to the COVID-19 pandemic to design and construct the Community Support Facility, subject to the terms of this Agreement, to serve citizens of the City of Farmers Branch, Texas, who have faced negative economic impacts due to the COVID-19 pandemic.



(b) Metrocrest agrees that the Community Support Facility will be designed, developed, and built containing features and elements including, but not limited to:

- (i) Approximately forty-eight thousand (48,000) square foot;
- (ii) Expanded case management services, space, and staff;
- (iii) Center for employment and continued education;
- (iv) Expanded food pantry and warehouse;
- (v) Mobile pantry truck program capabilities;
- (vi) Volunteer center with training kitchen;
- (vii) Teaching garden with nutritional program; and
- (viii) Shared space to offer complementary services.

4.03 Plan Approval. Company shall submit the Plans to the City for review and approval prior to Commencement of Construction of the Community Support Facility.

## ARTICLE V CONDITIONS TO GRANTS

The obligation of the City to pay the Grants shall be conditioned upon the compliance and satisfaction by Metrocrest of the terms and conditions of this Agreement and each of the following conditions:

5.01 Laws, Rules, and Regulations. Expenditures of the Grants are governed by this Agreement, ARPA, Treasury Guidance, and all other applicable State and Federal laws, rules, and regulations. Metrocrest acknowledges and understands that the Grants are subject to the terms and conditions of this Agreement, ARPA, Treasury Guidance, and all other applicable State and Federal laws, rules, and regulations. The Parties agree to timely comply, without additional cost or expense to the other Party, unless otherwise specified herein, with any statute, rule, regulation, grant, contract provision, subsequent federal guidance or other state or federal law, rule, regulation, or other similar restriction that imposes additional or greater requirements than stated herein and that is directly applicable to the services rendered or funds provided under the terms of this Agreement.

5.02 Time Period for Incurring Eligible Expenditures. Fiscal Recovery Funds received by Metrocrest through the Grants must have been or be incurred by Metrocrest between March 3, 2021, and December 31, 2024 ("Covered Period"). Any expenses incurred before or after the Covered Period are not Eligible Expenses. Expensed incurred within the Covered Period must be expended by December 31, 2026. For an expense to be incurred, performance or delivery must occur during the Covered Period. "Incurred", as used herein, shall mean orders placed for property and services, contract and subawards made, and similar transactions that require payment.

5.03 Repayment of Unused Funds. If any Program Grant Funds are not incurred during the Covered Period or expended by December 31, 2026, they shall be returned by Metrocrest to the City within five (5) business days.

5.04 Reporting and Accountability.

(a) Reports. The Metrocrest shall keep the City informed of all expenditures made under this Agreement during the term of this Agreement in any frequency or format of report or reporting as determined in the City's sole discretion including, but not limited to, annual reports, quarterly reports, and an annual update to the City Council in writing and a presentation to the City Council of the City of Farmers Branch at a meeting of the City Council when requested by the City.

(b) Access to Records. Metrocrest agrees that City, or any of its duly authorized representatives, the State, or the Federal Government has the right of timely and unrestricted access to any books, documents, papers, reports or other records of Metrocrest that are pertinent to this Agreement, or order to make audit, examinations, excerpts, transcripts, and copies of such records. This right also includes timely and reasonable access to Metrocrest personnel for the for the purpose of reviewing, interviewing, evaluating, and monitoring related to such documents. All such items shall be furnished to the City.

(c) Maintenance of Records. Metrocrest's records, books, and other documents reasonably related to this Agreement shall be kept and maintained in standard accounting form. Such records, books, and documents shall be made available for inspection by City, or any of its duly authorized representatives, the State, or the Federal Government upon request.

(d) Federal Accounting Requirements. Metrocrest acknowledges that Fiscal Recovery Funds are considered to be "other financial assistance" under 2 C.F.R. § 200.40 and City is subject to the following federal accounting requirements under CFDA #21.019:

a single audit pursuant to the Single Audit Act (31 U.S.C. §§ 7501-7507) or a program specific audit pursuant to 2 C.F.R. § 200.501(a), if Metrocrest as a subrecipient has spent \$750,000 or more in federal awards during its fiscal year, and

the following requirements in the Uniform Guidance (2 C.F.R. Part 200):

2 C.F.R. § 200.303 regarding internal controls,

§§ 200.330 through 200.332 regarding subrecipient monitoring and management, and

subpart F regarding audit requirements.

(e) Audit. The City, its assigns, the State, or the Federal Government shall have the unrestricted right to audit all data or documents related to this Agreement. Such data shall be furnished in the City at a mutually convenient time within a reasonable time. Should City determine it reasonably necessary, Metrocrest shall make all of its records, books, and documents reasonably related to this Agreement available to authorized City, State, or Federal Government



personnel, at reasonable times and within reasonable periods, for inspection or auditing purposes or to substantiate the provisions of services under this Agreement.

(f) Documentation and Retention. Metrocrest shall track and document all use and expenditures of the Grants. All records, books, and documents reasonably related to this Agreement shall be maintained and kept by Metrocrest for a minimum of four (4) years after the termination or expiration of this Agreement. If any litigation, claim, or audit involving these documents or records begins before the specified period expires, Metrocrest must keep the records and documents for not less than four (4) years and until all litigation, claims, or audit findings are resolved, whichever is later.

5.05 Source of Grant Funds. Metrocrest acknowledges that funding for this Agreement comes from Fiscal Recovery Funds received by the City pursuant to ARPA. City has no independent obligation to provide Metrocrest with funds from any other source. Payment of the Grants to Metrocrest by City is subject to and conditioned upon the City receiving appropriations of Fiscal Recovery Funds. Metrocrest understands that any expenses incurred in excess of the Grants are Metrocrest's sole responsibility and will not be paid by City.

5.07 Return of Grant Award for Non-Compliance and Right to Cure. Should Metrocrest's spending of the Grants be in violation of applicable laws, breach provisions of this Agreement, or otherwise be determined by the Federal Government, State, or the City to be in violation of any applicable regulation or law, Metrocrest shall return to the City that portion of the Grants that is later determined to have been spent in violation of applicable laws, regulations or this Agreement upon ten (10) days written notice. The remedy provided in this section is in addition to and not in lieu of any all other claims, causes of action, and legal and equitable remedies available to City under applicable law.

## ARTICLE VI INDEMNIFICATION

METROCREST DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, CAUSED BY OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY METROCREST, ITS AGENT, ITS CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH METROCREST EXERCISES CONTROL.

INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS IN PROPORTION TO METROCREST'S LIABILITY.



METROCREST'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY METROCREST UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

## ARTICLE VII MISCELLANEOUS PROVISIONS

7.01 Entire Agreement. This Agreement constitutes the sole and only agreement between the Parties and supersedes any prior understandings written or oral agreements between the Parties with respect to this subject matter.

7.02 Assignment. Metrocrest may not assign this Agreement in whole or in part without the prior written consent of City. In the event of an assignment by Metrocrest to which City has consented, the assignee shall agree in writing with City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

7.03 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective successors and assigns.

7.04 Governing Law; Venue. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in a state court of competent jurisdiction in Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said Court.

7.05 Amendments. This Agreement may be amended only by the mutual written agreement of the Parties.

7.06 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

7.07 Independent Contractor. It is understood and agreed by and between the Parties that Metrocrest in satisfying the conditions of this Agreement, is acting independently, and that City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Metrocrest pursuant to this Agreement shall be in the capacity of an independent contractor and not as an agent or employee of City. Metrocrest shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

7.08 Notices. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed or facsimile to the address specified below, or

to such other party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City, to:

Charles S. Cox, City Manager  
City of Farmers Branch, Texas  
13000 William Dodson Parkway  
Farmers Branch, Texas 75234

With copy to:

Peter G. Smith  
Nichols, Jackson, Dillard, Hager & Smith, LLP  
1800 Ross Tower  
500 N. Akard  
Dallas, Texas 75201

If intended for Metrocrest:

Tracy Eubanks, Chief Executive Officer  
Metrocrest Services, Inc.  
13801 Hutton Drive, Suite 150  
Farmers Branch, Texas 75234

7.09 Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the Parties hereto.

7.10 Exhibits and Recitals. The recitals and exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

7.11 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

7.12 Boycott Israel; Boycott Energy Companies; and Prohibition of Discrimination against Firearm Entities and Firearm Trade Associations. (a) Metrocrest verifies that it does not Boycott Israel and agrees that during the term of the Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended.

(b) Metrocrest verifies that it does not Boycott Energy Companies and agrees that during the term of this Agreement will not Boycott Energy Companies as that term is defined in Texas Government Code Section 809.001, as amended.

(c) Metrocrest verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association as those terms are defined in Texas Government Code Section 2274.001, as amended; and (ii) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association



(d) This section does not apply if Metrocrest is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) Professional has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement.

7.13 Employment of Undocumented Workers. During the term of this Agreement, Company agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Company shall repay the Grants, and any other funds received by Company from City as of the date of such violation within one hundred twenty (120) days after the date Company is notified by City of such violation, plus interest at the rate of four percent (4%) compounded annually from the date of violation until paid.

7.14 Federal Provisions.

(a) Civil Rights and Equal Opportunity Employment. During the performance of this Agreement, Metrocrest agrees as follows:

(i) Metrocrest will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Metrocrest will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. This action includes, but is not limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Metrocrest agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(ii) Metrocrest will, in all solicitations or advertisements for employees placed by or on behalf of Metrocrest, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(iii) Metrocrest will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising these labor union or workers' representatives of Metrocrest's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(iv) Metrocrest will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(v) Metrocrest will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant to it, and will permit access to its books, records,

and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with these rules, regulations, and orders.

(vi) If Metrocrest is not compliant with the nondiscrimination clauses of this Agreement or with any of these rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and Metrocrest may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(vii) Metrocrest will include the portion of the sentence immediately preceding paragraph 1.1 and the provisions of paragraphs 1.1 through 1.7 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that these provisions will be binding upon each subrecipient or vendor. Metrocrest will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event Metrocrest becomes involved in, or is threatened with, litigation with a subrecipient or vendor as a result of this direction by the administering agency Metrocrest may request the United States to enter into such litigation to protect the interests of the United States.

(viii) List of Pertinent Nondiscrimination Authorities: Metrocrest for itself, its assignees, and successors in interest agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);



- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, subrecipients and Metrocrest’s, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); and
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.

(b) Suspension and Debarment. In accordance with 2 CFR section 180.300, the principal of this contract as described in 2 CFR section 180.995 being duly sworn or under penalty of perjury under the laws of the United States, certifies that neither this company nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, the State of Texas or any of its departments or agencies. If during the contract period the principal becomes debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation, the principal shall immediately inform the City. For agreements that are financed by Federal or State grants, Professional agrees that this section will be enforced on each of its subcontractors and will inform the City of any violations of this section by subcontractors to the Agreement. The certification in this section is a material representation of fact relied upon by the City in entering into this contract

(c) Work Hours and Safety Standards. If the Metrocrest, using the Grants, enters into a contract that exceeds \$100,000 and involves the employment of mechanics or laborers, then any such contract must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic

must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

(d) Lobbying Prohibition. Metrocrest certifies the following:

(i) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

(ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Recipient must complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities."

(iii) The Recipient must require that this certification be included in the award documents for all subawards (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Recipients shall certify and disclose.

(iv) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(e) Clean Air Act and the Federal Water Pollution Control Act. Metrocrest agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), and will report violations to the Federal Emergency Management Agency ("FEMA") and the Regional Office of the Environmental Protection Agency.

*(Signature Page to Follow)*



SIGNED AND AGREED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF FARMERS BRANCH, TEXAS

By: \_\_\_\_\_  
Charles S. Cox, City Manager

Attest:

\_\_\_\_\_  
Amy Piukana, City Secretary

Approved as to Form:

\_\_\_\_\_  
Peter G. Smith, City Attorney

SIGNED AND AGREED this 19<sup>th</sup> day of November, 2021.

METROCREST SERVICES, INC.

By: \_\_\_\_\_  
Tracy Eubanks, Chief Executive Officer