



MAJOR CONSTRUCTION CONTRACT GLO CONTRACT NO. 19-094-014

THE GENERAL LAND OFFICE (the “GLO”) and **DRC CONSTRUCTION, LLC** (“Contractor”), each a “Party” and collectively “the Parties,” enter into the following contract for major construction services (the “Contract”) pursuant to Chapters 2155-2156 of the Texas Government Code in conjunction with 2 C.F.R. § 200.317.

I. PROJECT

1.01 PROJECT DESCRIPTION

In strict conformance with GLO Request for Proposals No. X0014978-AW (the “RFP”) and the terms and conditions of this Contract, Contractor hereby agrees with the GLO to perform rehabilitation, reconstruction, and new construction of single-family and multi-family residential structures in compliance with local, Federal, and State statutory requirements for grants under U.S. Department of Housing and Urban Development’s Community Development Block Grant Disaster Recovery (“CDBG-DR”) Program for the 2015 and 2016 Texas flood events, Hurricane Harvey, and future CDBG-DR allocations made within the contract period. The work to be performed on each residential structure is herein referred to as a “Project” and, collectively, as the “Projects.”

1.02 CONTRACT DOCUMENTS

The GLO and Contractor hereby agree that this document and the following Attachments, collectively referred to as the “Contract Documents,” shall govern the Project(s).

ATTACHMENT A:	SCOPE OF WORK
ATTACHMENT B:	FEDERAL ASSURANCES AND CERTIFICATIONS
ATTACHMENT C:	GENERAL AFFIRMATIONS
ATTACHMENT D:	UNIFORM GENERAL AND SUPPLEMENTAL CONDITIONS
ATTACHMENT E:	REQUIRED BONDS
ATTACHMENT F:	REQUIRED INSURANCE AND CERTIFICATE(S) OF INSURANCE
ATTACHMENT G:	GLO BUILDER ASSIGNMENT METHOD, AS AMENDED
ATTACHMENT H:	FORM OF CONTRACTOR-HOMEOWNER AGREEMENT

INCORPORATED BY REFERENCE:

GLO REQUEST FOR PROPOSALS NO. X0014978-AW

CONTRACTOR’S SOLICITATION RESPONSE TO GLO RFP NO. X0014978-AW

II. TERM AND LIQUIDATED DAMAGES

- 2.01** This Contract shall be effective as of the date executed by the last Party and shall terminate upon the latest completion date of the Project(s) assigned to Contractor or on June 30, 2022, whichever is earlier. The GLO, at its own discretion, may extend any contract for up to two additional one-year terms, subject to terms and conditions mutually agreeable to both parties.
- 2.02** Contractor hereby agrees to complete each individual Project, as assigned by Work Order, within **ONE HUNDRED TWENTY (120) CALENDAR DAYS**, commencing on the date specified in the GLO's written Notice to Proceed ("NTP"). If Contractor fails to complete the work within the contracted period, including all officially approved extensions thereto, the GLO has determined liquidated damages to be **ONE HUNDRED DOLLARS (\$100.00)** per each day past due, per individual Project assigned.

III. CONSIDERATION

- 3.01** The consideration to be paid by the GLO to Contractor for furnishing all the materials, supplies, machinery, equipment, tools, labor, superintendence, insurance, and other accessories, fees, and services necessary to complete the Projects in accordance with the Contract Documents shall be the total consideration paid to Contractor under any Work Order(s) issued under this Contract, subject to any limit on maximum allowable rates as determined by the GLO or federal funding agency. No one Work Order, nor the cumulative total of all Work Orders issued hereunder shall exceed the maximum amount available for such services as prescribed by the funding agency or governing law for the term of this Contract.
- 3.02** To obtain reimbursement for Work performed on a Project, Contractor shall submit GLO Form 11.04, Building Contractor's Request for Payment, signed by Contractor and the homeowner of the Project property, along with all required supporting documentation, at the times specified and in accordance with the terms of **Attachment D**. The GLO agrees to pay Contractor in accordance with Chapter 2251 of the Texas Government Code (the "Prompt Pay Act").

Travel will not be reimbursed under this Contract.

The Prompt Pay Act generally applies to payments to Contractor. HOWEVER, THE PROMPT PAY ACT DOES NOT APPLY IF CONTRACTOR DOES NOT SEND INVOICES TO DR.BILLING@GLO.TEXAS.GOV. If Contractor does not submit invoices in strict accordance with the instructions in this section, payment of invoices may be significantly delayed. The GLO shall not pay interest, fees, or other penalties for late payments resulting from Contractor's failure to submit invoices in strict accordance with the instructions in this section.

IV. RECORDS, AUDIT, RETENTION, AND DISCLOSURE

4.01 BOOKS AND RECORDS

Contractor shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records sufficient to allow the GLO, the Texas State Auditor's Office, the United

States Government, and/or their authorized representatives to determine Contractor's compliance with this Contract and all applicable laws, rules, and regulations.

4.02 INSPECTION AND AUDIT

- a) All records related to this Contract, including records of Contractor and its Subcontractors, shall be subject to all applicable statutes, regulations, and other laws governing administration or audit of this Contract, including Title 2, Part 200, Code of Federal Regulations and Chapters 321 and 2155-2262 of the Texas Government Code.
- b) The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. Acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. **The Office of the Comptroller General of the United States, the Government Accountability Office, the Office of Inspector General, or any authorized representative of the U.S. Government shall also have this right of inspection.** Contractor shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards.
- c) State agencies authorized to audit and inspect Contractor, its records, subcontractors, and subcontractors' records include the GLO, the GLO's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office, the Texas Comptroller of Public Accounts, and their authorized designees. With regard to any federal funding, federal agencies authorized to audit and inspect Contractor, its records, subcontractors, and subcontractors' records include: the relevant federal agency(ies), the Office of the Comptroller General of the United States, the Government Accountability Office, the Office of Inspector General, and their authorized designees.

4.03 PERIOD OF RETENTION

All records relevant to this Contract shall be retained for a period of three (3) years subsequent to the final closeout of any CDBG-DR Program for which a Work Order is issued, in accordance with federal regulations. **The GLO will notify all Program participants of the date upon which local records may be destroyed.**

4.04 CONFIDENTIALITY

To the extent permitted by law, Contractor and the GLO shall keep all information confidential, in whatever form produced, prepared, observed, or received by Contractor or the GLO to the extent that such information is: (a) confidential by law; (b) marked or designated "confidential" (or words to that effect) by Contractor or the GLO; or (c) information that Contractor or the GLO is otherwise required to keep confidential by this

Contract. Contractor will not advertise that it is doing business with the GLO, use this Contract as a marketing or sales tool, or make any press releases concerning work under this Contract without the prior written consent of the GLO.

The Parties shall keep all personally identifiable information ("PII") relating to any Homeowner confidential in whatever form produced, prepared, observed, or received by Contractor or the GLO.

4.05 PUBLIC RECORDS

The GLO may post this Contract and the Solicitation Response on its website. Information related to this Contract and its performance may be subject to the Public Information Act ("P.I.A.") and will be withheld or disclosed in accordance therewith. Contractor shall make any information created or exchanged with the state pursuant to the Contract, and not otherwise excepted from disclosure under the P.I.A., available in a format that is accessible by the public at no additional charge to the state/the GLO. Contractor shall make any information required under the P.I.A. available to the GLO in portable document file (".pdf") format or any other format agreed between the parties. By failing to mark as "confidential" or a "trade secret" any information Contractor believes to be excepted from public disclosure, Contractor waives all claims it may make against the GLO for releasing such information without prior notice to Contractor. Contractor shall notify the GLO's Office of General Counsel within twenty-four hours of Contractor's receipt of any third party written requests for information and forward a copy of said written requests to PIALegal@glo.texas.gov.

V. MISCELLANEOUS PROVISIONS

5.01 INSURANCE

Contractor shall acquire and maintain, for the duration of any Work Order(s) issued under this Contract, insurance with financially sound and reputable insurers licensed by the Texas Department of Insurance in conformance with all requirements of **Attachments D and F**, including the required "form of" certificate. Contractor shall submit certificates of coverage establishing to the GLO's satisfaction the nature and extent of coverage granted by each policy prior to the assignment of any Work. Contractor shall submit certificates of insurance and endorsements electronically, in the manner requested by the GLO. If the GLO determines any insurance policy fails to comply with the terms of this Contract or applicable Work Order, Contractor shall secure such additional policies or coverage as the GLO may reasonably request or that are required by law or regulation.

Contractor shall maintain, and submit upon request by the GLO, renewed certificates of insurance and endorsements as evidence of insurance coverage throughout the term of any Work Order(s) issued under this Contract. Contractor may not perform any work under this Contract or any Work Order issued under this Contract if Contractor's insurance coverage does not meet the requirements of this Contract. The GLO may terminate this Contract if Contractor fails to submit required insurance documents as specified in this section or upon the GLO's request.

5.02 TAXES/WORKERS' COMPENSATION/UNEMPLOYMENT INSURANCE

- (a) Contractor shall be solely liable and responsible for payment of Contractor's and Contractor's employees' taxes of whatever kind, arising out of the execution or performance of the Contract. Contractor shall comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers' compensation. The GLO and the State of Texas shall not be liable to Contractor or its officers, agents, employees, representatives, contractors, assignees, designees, subcontractors, or others for the payment of taxes or the provision of unemployment insurance, workers' compensation, or any benefit available to a state employee or employee of another governmental entity.
- (b) Contractor shall indemnify, defend, and hold harmless the State of Texas, the GLO, and/or their officers, agents, employees, representatives, contractors, assignees, and/or designees from and against any and all liability, actions, claims, demands, damages, proceedings, or suits, and all related costs, attorney fees, and expenses arising out of, connected with, or resulting from tax liability, unemployment insurance, or workers' compensation in the execution or performance of the Contract. Contractor and the GLO shall furnish timely written notice to each other of any such claim. Contractor shall be liable to pay all costs of defense including attorneys' fees. Contractor shall coordinate its defense with the GLO and the Office of the Attorney General if the GLO or another Texas state agency is a named co-defendant with Contractor in any suit. Contractor may not agree to settle any such lawsuit or other claim without first obtaining the written consent of the GLO and, if applicable, the Office of the Attorney General.

5.03 LEGAL OBLIGATIONS

Contractor shall procure and maintain for the duration of this Contract any license, any authorization, insurance, waiver, permit, qualification, or certification required by federal, state, county, or city statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract. Contractor shall pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Contractor shall pay any such government obligations not paid by its subcontractors during performance of this Contract.

5.04 COMPLIANCE WITH OTHER LAWS

In its performance of this Contract, Contractor shall comply with all applicable federal, state, county, and city laws, statutes, ordinances, and regulations. Contractor is deemed to know of and understand all applicable laws, statutes, ordinances, and regulations.

5.05 STATEMENTS OF ENTRIES

Except as otherwise provided under federal law, any person who knowingly and willfully falsifies, conceals, or covers up a material fact by any trick, scheme or device or who makes any materially false, fictitious, or fraudulent statement or representation or who makes or uses any false writing or document knowing the writing or document to contain

any materially false, fictitious, or fraudulent statement or entry shall be prosecuted under Title 18, United States Code, § 1001.

Under penalties of 18 U.S.C. § 1001, the undersigned Contractor representative hereby declares that he/she has examined this Contract and Attachments, including without limitation, the Solicitation and Solicitation Response, and to the best of his/her knowledge and belief any statements, entries, or claims made by Contractor are, correct, accurate and complete.


SIGNATURE PAGE FOLLOWS

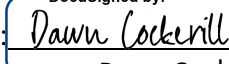
**SIGNATURE PAGE FOR GLO CONTRACT NO. 19-094-014
CDBG-DR MAJOR CONSTRUCTION CONTRACT**

NOW THEREFORE, the parties for themselves, their heirs, successors, executors, administrators, and assigns, do hereby agree to full performance of the covenants herein contained.

TEXAS GENERAL LAND OFFICE







DRC CONSTRUCTION, LLC

DocuSigned by:

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Mark A. Havens, Chief Clerk/
Deputy Land Commissioner

DocuSigned by:

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Sign: Dawn Cockerill
Print Name: Dawn Cockerill
Title: Owner

Date of execution: 11/13/2018

Date of execution: 11/13/2018

OGC 
PM 
DD 
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GC 

ATTACHMENTS TO THIS CONTRACT:

ATTACHMENT A: SCOPE OF WORK

ATTACHMENT B: FEDERAL ASSURANCES AND CERTIFICATIONS

ATTACHMENT C: GENERAL AFFIRMATIONS

ATTACHMENT D: UNIFORM GENERAL AND SUPPLEMENTAL CONDITIONS

ATTACHMENT E: REQUIRED BONDS

ATTACHMENT F: REQUIRED INSURANCE AND CERTIFICATE(S) OF INSURANCE

ATTACHMENT G: GLO BUILDER ASSIGNMENT METHOD

ATTACHMENT H: DRAFT OF CONTRACTOR-HOMEOWNER AGREEMENT

INCORPORATED BY REFERENCE:

GLO REQUEST FOR PROPOSALS No. X0014978-AW

CONTRACTORS FULL RESPONSE TO GLO RFP No. X0014978-AW

SCOPE OF WORK

1. SCOPE OF SERVICES REQUESTED

Contractor may perform, or cause to be performed, rehabilitation, reconstruction, or new construction of residential construction projects (each a “Project” and collectively, the “Projects”) for the CDBG-DR program, in accordance with GLO, local, and/or regional housing guidelines, as applicable. GLO Housing Guidelines may be found on the GLO Community Development and Revitalization (“CDR”) division’s website at www.recovery.texas.gov.

A Work Order may be issued to Contractor per each Zone in which Contractor may provide services. Pursuant to each issued Work Order, Contractor may receive assignments for rehabilitation, reconstruction, and/or new construction Projects, if applicable, and shall execute a Contractor-Homeowner Agreement with the homeowner of each assigned property, establishing the Project-specific terms and conditions.

2. DESCRIPTION OF SERVICES AND REQUIREMENTS

Contractor may be required by the GLO to perform the services enumerated in this section under this Contract. In addition to the services and requirements described below, Contractor must perform any other ancillary construction-related services that may be required for a given property. These ancillary services may go beyond what would be required for the repair/reconstruction of a property.

2.1 Rehabilitation Scope of Work

It is anticipated that homes eligible for rehabilitation will require an array of repairs ranging from minor to major. The scope of work for each repaired structure will vary, but may include, although not be limited to, the following:

- a) Development of a thorough scope of necessary repairs using a GLO-prescribed form;
- b) Coordination with the property owner and his/her family and case management from assignment to obtaining a certificate of occupancy for closing;
- c) Obtaining all necessary state and local permits and approvals prior to the commencement of the work for each structure;
- d) Providing architectural and house plan renderings;
- e) Demolition of damaged interior and exterior materials;
- f) Foundation leveling, repair, and/or elevation;
- g) Structural damage repair;
- h) Building envelope repair, including:
 - Roof repair or replacement and attendant damage;
 - Door and window replacement;
 - Siding /veneer repair or replacement;

- Mechanical (HVAC), electrical, and plumbing systems repair or replacement;
- Drywall repair or replacement;
- Rough and trim carpentry;
- i) Surface preparation and painting;
- j) Flooring repair or replacement;
- k) Cabinet and appliance replacement;
- l) Lead-based paint mitigation;
- m) Specialty construction elements associated with historic properties, including coordination with Texas Historical Commission, the City of Galveston Landmark Commission and other local historic districts and stakeholders in other jurisdictions;
- n) Wind mitigation and retrofitting measures (in areas designated as a Catastrophe Area by the Commissioner of Insurance of the State of Texas);
- o) Specialty construction elements associated with Green Building Construction techniques as required by HUD;
- p) Addressing special needs accessibility requirements; and
- q) Conducting close-outs for each project, which may include obtaining certificate(s) of occupancy from applicable state and local authorities.

2.2 Reconstruction and New Construction Scope of Work

In certain cases, a property owner may only be eligible for the complete reconstruction of his/her home, either substantially within the same footprint as the prior home (reconstruction) or new construction on a different footprint. The scope of work for each reconstructed or newly constructed structure will vary but may include, although not be limited to, the following:

- a) Coordination with the property owner and his/her family from assignment to obtaining a certificate of occupancy for closing;
- b) Obtaining all necessary state and local permits and approvals prior to the commencement of the work for each structure;
- c) Utility disconnection and deactivation;
- d) Demolition of existing structure;
- e) Debris removal in accordance with all federal, state, and local requirements, including the disposal of potential asbestos containing materials;
- f) Providing architectural and house plan renderings;
- g) Site preparation;
- h) Construction of new residential structures including 2, 3, and 4-bedroom floor plans in accordance with all applicable local and state codes and standards as well as the specified Green Standard (see GLO Minimum Design Standards for further information)

- i) Meeting the requirements of the GLO Minimum Design Standards, located on the GLO-CDR website at www.recovery.texas.gov;
- j) Accessibility and design of projects to comply with the American with Disabilities Act of 1990 (if applicable) known as ADA requirements with HUD exceptions;
- k) Meeting the requirements of the GLO Visitability Standards, located at TexasRebuilds.org; and
- l) Conducting close-outs for each project, which may include obtaining certificate(s) of occupancy from applicable state and local authorities.

2.3 ADDITIONAL REQUIREMENTS

Contractor must perform additional duties including, but not limited to:

- a) Providing professional labor, equipment, and materials adequate to perform the work in accordance with the scope of work issued for each eligible applicant's residential structure while ensuring that all applicable housing standards and codes are met;
- b) Complying with all applicable local, state, and federal laws, regulations, and guidelines, which may include: HUD Community Development Block Grant disaster laws, regulations, and guidelines; the Davis Bacon Act (for repairs to properties containing more than eight (8) units); and Section 3 of the Housing and Urban Development Act of 1968;
- c) Mobilizing in the awarded Zone(s) within 45 days from the effective date of a Work Order;
- d) Providing documentation and tracking of construction progress;
- e) Meeting with individual property owners to review the scope of work to be performed, including establishing a work schedule acceptable to property owners and reviewing work upon final inspection;
- f) Meeting GLO's 120-day work completion requirement from the Notice to Proceed;
- g) Providing a certificate of compliance from the Green Standard governing body (see the GLO Minimum Design Standards for further information);
- h) Providing information responsive to P.I.A. requests in a timely manner;
- i) Meeting all federal, state, and local requirements for the transport and disposal of municipal solid, industrial, hazardous, and other wastes from demolished structures;
- j) Providing a one-year workmanship and materials warranty, a two-year electrical, mechanical and delivery system warranty, and a third party ten-year structural warranty; and
- k) Assisting homeowners in vacating their damaged home, if necessary.

ZONES

Contractor will perform services under the Contract in one or more of the zones listed below:

Zone 1 includes properties located in the following Texas counties: Anderson, Bosque, Bowie, Cass, Cherokee, Cooke, Dallas, Delta, Denton, Ellis, Erath, Falls, Fannin, Grayson, Gregg, Harrison,

Henderson, Hill, Hood, Hopkins, Johnson, Kauffman, Lamar, Limestone, Marion, McLennan, Navarro, Parker, Pinto, Rains, Red River, Rockwall, Rusk, Smith, Somervell, Tarrant, Upshur, Van Zandt, Wise, Wood.

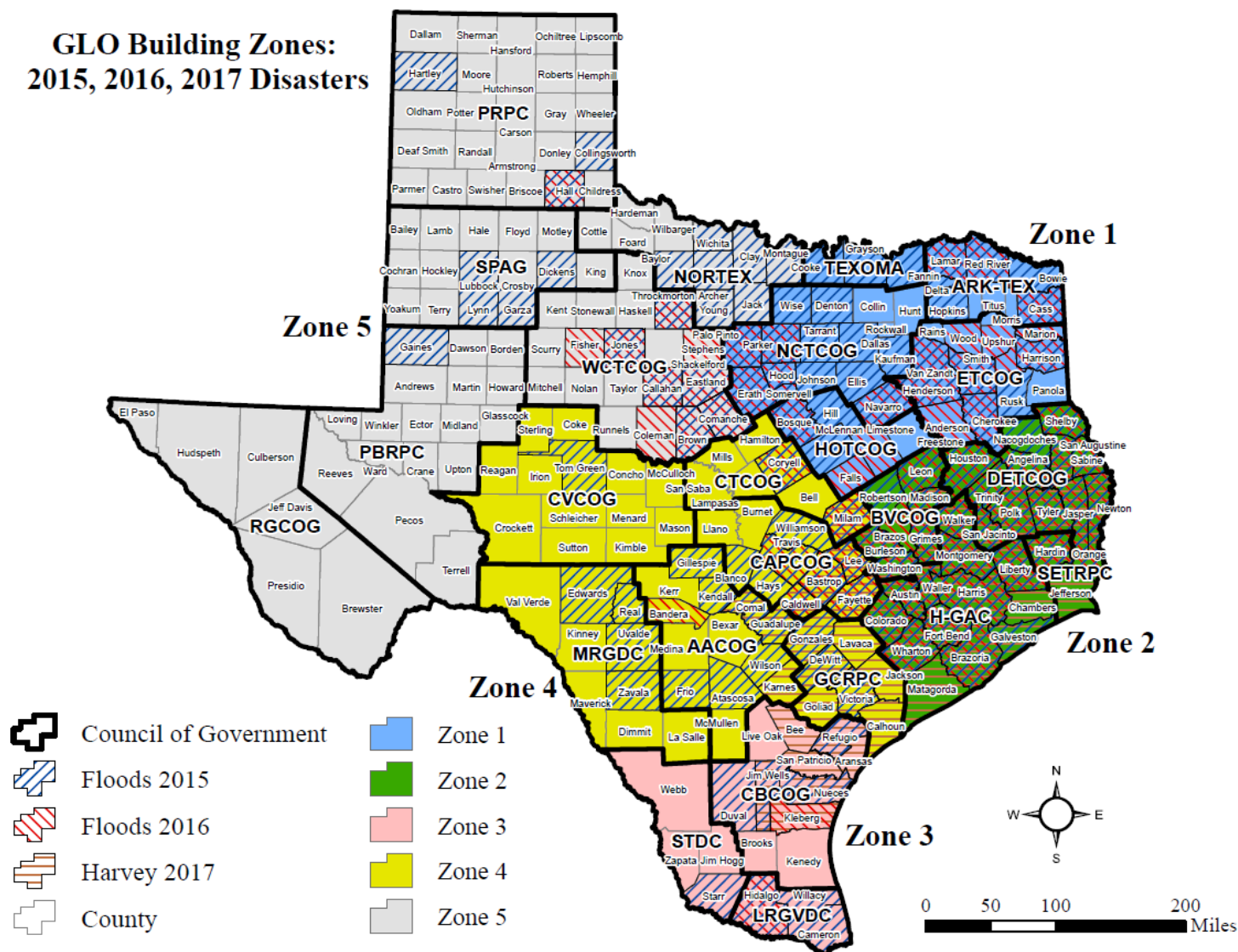
Zone 2 includes properties located in the following Texas counties: Angelina, Austin, Brazoria, Brazos, Burleson, Chambers, Colorado, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jasper, Leon, Liberty, Madison, Montgomery, Nacogdoches, Newton, Orange, Polk, Robertson, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler, Walker, Waller, Washington, Wharton.

Zone 3 includes properties located in the following Texas counties: Aransas, Bee, Cameron, Duval, Hidalgo, Jim Wells, Kleberg, Nueces, Refugio, San Patricio, Starr, Willacy.

Zone 4 includes properties located in the following Texas counties: Atascosa, Bandera, Bastrop, Blanco, Caldwell, Calhoun, Comal, Coryell, DeWitt, Edwards, Fayette, Frio, Gillespie, Goliad, Gonzales, Guadalupe, Hays, Jackson, Karnes, Kendall, Lavaca, Lee, Milam, Real, Tom Green, Travis, Uvalde, Victoria, Williamson, Wilson, Zavala.

Zone 5 includes properties located in the following Texas counties: Archer, Baylor, Brown, Callahan, Clay, Coleman, Collingsworth, Comanche, Dickens, Eastland, Fisher, Gaines, Garza, Hall, Hartley, Jack, Jones, Lubbock, Lynn, Montague, Shackelford, Throckmorton, Wichita, Young.

GLO Building Zones: 2015, 2016, 2017 Disasters



PRICING

Reconstruction and New Construction Services: Composite Square Foot Pricing

The following prices per square foot will used for all reconstruction and new construction services for each respective size house for each region. Any additional construction costs created by unusual, site specific conditions will be considered via the change order process.

Zone 1			Zone 2			Zone 3			Zone 4			Zone 5		
2 BR	3BR	4BR	2 BR	3BR	4BR	2 BR	3BR	4BR	2 BR	3BR	4BR	2 BR	3BR	4BR
\$120.78	\$119.11	\$117.11	\$125.74	\$123.71	\$121.89	\$126.18	\$125.84	\$124.77	\$125.26	\$124.20	\$122.09	\$121.41	\$120.05	\$117.93

Rehabilitation Services: Per Unit Pricing

Rehabilitation Services pricing per unit may be approved for each Project and may consider proposed unit pricing from the selected builders and/or standard pricing using RS Means or a similar cost estimate system. This pricing may be standardized in the Builder Assignment Method, as amended, or in any Work Order(s) issued.

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ASSURANCES - CONSTRUCTION PROGRAMS

OMB Approval No. 4040-0009
Expiration Date: 01/31/2019

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.


As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will 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.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other non-discrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of

Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
20. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL		TITLE	
		Owner	
APPLICANT ORGANIZATION		DATE SUBMITTED	
DRC Construction, LLC		11/13/2018	

THIS FORM MUST BE EXECUTED

SF-424D (Rev. 7-97) Back

**CERTIFICATION REGARDING LOBBYING
COMPLIANT WITH APPENDIX A TO 24 C.F.R. PART 871**

Certification for Contracts, Grants, Loans, and Cooperative Agreements:

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact 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.

Statement for Loan Guarantees and Loan Insurance:

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

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above applicable certification.

NAME OF APPLICANT

DRC Construction, LLC

AWARD NUMBER AND/OR PROJECT NAME

19-094-014

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Dawn Cockerill

Owner

SIGNATURE

DATE

DocuSigned by:

Dawn Cockerill

11/13/2018

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Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

Approved by OMB
4040-0013

1. Type of Federal Action: _____ a. contract _____ b. grant _____ c. cooperative agreement _____ d. loan _____ e. loan guarantee _____ f. loan insurance	2. Status of Federal Action: _____ a. bid/offer/application _____ b. initial award _____ c. post-award	3. Report Type: _____ a. initial filing _____ b. material change For material change only: Year _____ quarter _____ Date of last report _____
4. Name and Address of Reporting Entity: _____ Prime _____ Subawardee Tier _____, if Known: <div style="text-align: center;"><i>Congressional District, if known:</i></div>		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: <div style="text-align: center;"><i>Congressional District, if known:</i></div>
6. Federal Department/Agency: 	7. Federal Program Name/Description: CFDA Number, <i>if applicable</i> : _____	
8. Federal Action Number, if known: 	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 4040-0013. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (4040-0013), Washington, DC 20503.

General Affirmations

To the extent they apply, Contractor affirms and agrees to the following, without exception:

1. Contractor represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Contractor nor the firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such a firm, corporation, partnership, or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Contract or any solicitation response upon which this Contract is based to any competitor or any other person engaged in the same line of business as Contractor.
2. If the Contract is for services, Contractor shall comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.
3. Under Section 231.006 of the Family Code, the vendor or applicant [Contractor] certifies that the individual or business entity named in this Contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
4. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application. Contractor certifies it has submitted this information to the GLO.
5. If the Contract is for the purchase or lease of computer equipment, as defined by Texas Health and Safety Code Section 361.952(2), Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code, related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in Title 30 Texas Administrative Code Chapter 328.
6. Pursuant to Section 2155.003 of the Texas Government Code, Contractor represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.
7. Payments due under the Contract shall be directly applied towards eliminating any debt or delinquency Contractor owes to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support.
8. Upon request of the GLO, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.

9. Contractor must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve any dispute arising under the Contract.
10. Contractor represents and warrants that, pursuant to Section 2270.002 of the Texas Government Code, Contractor does not boycott Israel and will not boycott Israel during the term of the Contract.
11. This Contract is contingent upon the continued availability of lawful appropriations by the Texas Legislature. Contractor understands that all obligations of the GLO under this Contract are subject to the availability of state funds. If such funds are not appropriated or become unavailable, the GLO may terminate the Contract. The Contract shall not be construed as creating a debt on behalf of the GLO in violation of Article III, Section 49a of the Texas Constitution.
12. Contractor certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
13. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of the GLO, (2) a person who at any time during the four years before the effective date of the Contract was the executive head of the GLO, or (3) a person who employs a current or former executive head of the GLO.
14. Contractor represents and warrants that all statements and information prepared and submitted in connection with this Contract are current, complete, true, and accurate. Submitting a false statement or making a material misrepresentation during the performance of this Contract is a material breach of contract and may void the Contract or be grounds for its termination.
15. Pursuant to Section 2155.004(a) of the Texas Government Code, Contractor certifies that neither Contractor nor any person or entity represented by Contractor has received compensation from the GLO to participate in the preparation of the specifications or solicitation on which this Contract is based. Under Section 2155.004(b) of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate. This Section does not prohibit Contractor from providing free technical assistance.
16. Contractor represents and warrants 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.
17. The Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Contract is fixed in any court of competent jurisdiction of Travis County,

Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the GLO.

18. CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE GLO, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. CONTRACTOR AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.
19. CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE GLO AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) THE GLO'S AND/OR CONTRACTOR'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE GLO BY CONTRACTOR OR OTHERWISE TO WHICH THE GLO HAS ACCESS AS A RESULT OF CONTRACTOR'S PERFORMANCE UNDER THE CONTRACT. CONTRACTOR AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, CONTRACTOR WILL REIMBURSE THE GLO AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE GLO DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF CONTRACTOR

OR IF THE GLO IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, THE GLO WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR WILL PAY ALL REASONABLE COSTS OF THE GLO'S COUNSEL.

20. Contractor has disclosed in writing to the GLO all existing or potential conflicts of interest relative to the performance of the Contract.
21. Sections 2155.006 and 2261.053 of the Texas Government Code, prohibit state agencies from accepting a solicitation response or awarding a contract that includes proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
22. Contractor understands that the GLO will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material related to this Contract may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor shall make any information created or exchanged with the State/GLO pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State or the GLO.
23. The person executing this Contract certifies that he/she is duly authorized to execute this Contract on his/her own behalf or on behalf of Contractor and legally empowered to contractually bind Contractor to the terms and conditions of the Contract and related documents.
24. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. The acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Contractor shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the Contract and the requirement to cooperate is included in any subcontract it awards. The GLO may unilaterally amend the Contract to comply with any rules and procedures of the state

auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.

25. Contractor certifies that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in the Contract by any state or federal agency.
26. Contractor expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Contractor represents and warrants to the GLO that any technology provided to the GLO for purchase pursuant to this Contract is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of: providing equivalent access for effective use by both visual and non-visual means; presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this Section, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans With Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.
27. If the Contract is for the purchase or lease of covered television equipment, as defined by Section 361.971(3) of the Texas Health and Safety Code, Contractor certifies its compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code, related to the Television Equipment Recycling Program.
28. In accordance with Texas Government Code Chapter 2252, Subchapter F, any iron or steel product Contractor uses in its performance of the Contract that is produced through a manufacturing process, as defined in Section 2252.201(2) of the Texas Government Code, must be produced in the United States.

UNIFORM GENERAL AND SUPPLEMENTAL CONDITIONS
CDBG-DR HOME BUILDERS
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Article 1 – General Contract Definitions

Unless the context clearly requires another meaning, the following terms shall have the meaning assigned below:

“[Applicant](#)” means a citizen or household eligible to receive benefits under the CDBG-DR Program for housing services.

“[Building Contractor’s Request for Payment](#)” means Form 11.04, signed by Contractor, Homeowner, and Inspector. This form will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>.

“[Case Manager / Mobility Counselor](#)” means the firm responsible for providing comprehensive application management and mobility counseling services to Applicants under the Program, under separate contract with the GLO.

“[CDBG-DR](#)” (or “[Program](#)”) means the U.S. Department of Housing and Urban Development’s (“HUD”) Community Development Block Grants for Disaster Recovery Program, including residential repair, construction, or reconstruction projects or programs administered by the GLO.

“[Change Order](#)” means a document executed by the GLO or the GDR (and the Contractor, if required), authorizing revisions to a Project.

“[Change Order Request](#)” means a written request initiated by the GLO, GDR, or Contractor in the event additional Work is necessary on a Project, describing the type of additional Work needed, the cost of the additional Work, and the time necessary for the additional Work to be completed.

“[Close-out Documents](#)” means the product brochures, product/equipment maintenance and operations instructions, manuals, warranties, as-built record documents, affidavits of payment, releases of lien and claim, etc., and as may be further defined or identified and required by the Contract Documents.

“[Contract](#)” means all of the Contract Documents between the GLO and Contractor.

“[Contract Date](#)” is the effective date of the Contract.

“[Contract Documents](#)” means the Contract, the Conditions of the Contract (General, Supplementary General, and Special Conditions), any Work Order(s) issued under the Contract, and any Change Order(s) issued; the drawings, specifications, bidding documents; and any Contractor-Homeowner Agreement(s).

“[Contractor](#)” means the individual, corporation, company, partnership, firm, or other organization that has contracted with the GLO to perform the Work under the Contract.

“[Contractor-Homeowner Agreement](#)” means the agreement signed by the Contractor and the Homeowner prior to the commencement of Work on an assigned Project.

“[Contract Sum](#)” means the total compensation payable to Contractor under any Work Order(s) issued under the Contract.

“[Contract Time](#)” means the period between the date the Notice to Proceed was issued by the GLO to Contractor for an assigned Project and the date scheduled for Final Completion of the Project in the Contract Documents, as may be amended by Change Order. Unless otherwise specified in writing, Contractor shall achieve Final Completion within one hundred twenty (120) days of receipt of the Notice to Proceed.

“[Date of Commencement](#)” means the date designated in a Notice to Proceed that Contractor shall commence the Work for a specified Project.

“[Day](#)” means a calendar day, unless otherwise specifically stipulated.

“[Drawings](#)” mean the work product, consisting of construction blueprints and/or plans, that depicts the location and quantity of elements of the Work.

“[Final Completion](#)” means that the Improvements are fit for their intended use in accordance with the Plans and Specifications, and all items specified in Article 15 have been executed and delivered to, and accepted by, the GLO or the GDR.

“[Final Inspection](#)” means an inspection conducted to determine whether: Work has been completed as authorized; all deficiencies have been corrected; and to release Retainage and/or make Final Payment to Contractor.

“[Final Payment](#)” means the payment of 40% of the Project Sum to Contractor upon receipt by the GLO of a payment request submitted by Contractor after the completion of the Final Inspection.

Attachment D
GLO Contract No. 19-094-014

“[Form 11.02 Pre-Construction Conference Report and Notice to Proceed](#)” means a GLO Form 11.02, signed by the Homeowner, Contractor, and Program to allow the initiation of construction. This form will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>.

“[GLO](#)” means the Texas General Land Office, its officers, employees, and designees, and the State of Texas and any duly authorized representative, acting by and through the GLO.

“[GLO’s Designated Representative](#)” or “[GDR](#)” means the individual appointed or assigned by the GLO to be its on-site representative during the Project(s), to exercise certain powers on behalf of the GLO and to undertake certain contract administration activities, as specifically outlined in the Contract Documents. GDR may also be referred to as Project Manager (“PM”), and the terms are interchangeable.

“[Homeowner](#)” means an Applicant, as defined herein, who owns the parcel of real property identified as the Site of the residential reconstruction, rehabilitation, or new construction activity assigned to Contractor.

“[Housing Unit](#)” means one single-family dwelling or one unit in a multi-family residential complex.

“[Inspector](#)” means a qualified individual who examines and assesses Work done on the Project(s). “Qualified,” for purposes of this definition, means that individual has: a current certification from a recognized construction organization, or five years construction experience (minimum), or approval by the GLO.

“[Improvement](#)” means Work by Contractor that has been ordered completed, revised, or corrected in any way by the GLO or GDR.

“[New Construction](#)” means a new home constructed on a previously undeveloped parcel.

“[Notice to Proceed](#)” means the written authorization from the GLO giving Contractor the authority to commence Work for a specified Project.

“[Plans and Specifications](#)” means the construction plans to be used during construction to establish that all applicants who receive new construction, reconstruction, or rehabilitation construction housing through programs funded by the GLO live in housing which is safe, sanitary, and affordable.

“[Pre-Construction Conference](#)” means an informational meeting between the Contractor and Homeowner during which Project details are discussed and required Project documentation is executed.

“[Program](#)” (or “[CDBG-DR](#)”) means HUD’s Community Development Block Grants for Disaster Recovery Program, including residential repair, construction, or reconstruction projects or programs administered by the GLO.

“[Progress Inspection](#)” means an inspection conducted at the fifty percent (50%) level of construction completion to determine whether the Work that has been performed to date is complete and accurate according to the Plans and Specifications.

“[Progress Payment](#)” means the payment of 50% of the Project Sum to Contractor upon receipt by the GLO of a payment request submitted by Contractor after successful completion of a Progress Inspection for a specified Project.

“[Project](#)” means the Work authorized by the GLO to be performed on a residential structure assigned to the Contractor, as more fully described in the Contract Documents.

“[Project Sum](#)” means the total compensation payable to Contractor for completion of the Work for one Project.

“[Property](#)” means that certain parcel of real property that is the Site of the Housing Unit assigned to Contractor as a Project, to be rehabilitated, reconstructed, or newly built.

“[Reconstruction](#)” means a new house built on the homeowner’s land to replace the homeowner’s previous dwelling.

“[Rehabilitation](#)” means the repair or restoration of Housing Units damaged during a disaster event to applicable construction codes and standards.

“[Samples](#)” means the physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish standards by which the Work will be judged.

“[Satisfactory Progress](#)” means the acceptable level of advancement of a Project by Contractor, as indicated by the timely scheduling of each required inspection within the time period assigned to the respective percentage of completion on the Project’s pay schedule.

For Reconstruction and New Construction Projects, the following schedule shall apply:

1. Fifty percent (50%) inspections must be scheduled within sixty (60) days of the Notice to Proceed for a one hundred (120) day Contract Time.
2. Final Inspections must be *passed* within one hundred twenty (120) days of the Notice to Proceed for a one hundred twenty (120) day Contract Time.

For Rehabilitation Projects, the following schedule shall apply:

1. Fifty percent (50%) inspections must be scheduled within sixty (60) days of the Notice to Proceed for a one hundred twenty (120) day Contract Time.
2. Final Inspections must be *passed* within one hundred twenty (120) days of the Notice to Proceed for a one hundred twenty (120) day Contract Time.

“[Shop Drawings](#)” means the drawings, diagrams, illustrations, schedules, performance charts, brochures, and other technical data which are prepared by Contractor or any Subcontractor, manufacturer, supplier, or distributor and which illustrate some portion of the Work.

“[Sign Off](#)” means the process indicating that Contractor’s Work on the Housing Unit as required under the Contract and Work Order is complete and Homeowner has accepted the performance as satisfactory.

“[Site](#)” means the geographical area at the location where the Work is to be performed.

“[Special Conditions](#)” means the documents containing terms and conditions relating to a specific Project and particular to it. Special Conditions, when used, are a part of the Contract Documents and supersede the Uniform General Conditions to the extent of conflict.

“[Specifications](#)” means any work product, whether produced by the GLO or an outside agency, which establishes the quality of the products and processes to be used to produce the Work.

“[Subcontractor](#)” means a person or organization that, as an independent contractor, contracts directly or indirectly with Contractor to perform part of or the entire Contract between the GLO and Contractor.

“[Supplemental General Conditions](#)” means the standard procedures and contract administration requirements of an individual State contracting agency that alter or expand upon matters covered in the Uniform General Conditions. Supplemental General Conditions, when used, are a part of the Contract Documents and supersede the Uniform General Conditions to the extent of conflict.

“[Time Extension Request](#)” means a written notice submitted to the GLO or GDR by Contractor in the event Contractor believes Work on a Project has been delayed by a circumstance designated as excusable under §19.1.3, other than inclement weather.

“[Timely](#)” means within forty-eight (48) hours, or a period of time otherwise specified by the GLO or GDR.

“[Unit Price Work](#)” means Work to be paid for on the basis of unit prices submitted by Contractor pursuant to GLO RFP No. X0014978-AW.

“[Work](#)” means all labor, plans, materials, facilities, and all other services necessary or incidental to the fulfillment of Contractor’s obligations for a Project in conformance with the Contract Documents.

“[Work Order](#)” means an individually negotiated document authorizing specified Work under the Contract, if any.

NOTE: THE TERMS “BID,” “BIDDER,” OR SIMILAR TERMS USED IN THIS DOCUMENT ALSO MEAN “PROPOSAL,” “PROPOSER,” OR “RESPONDENT” AS APPROPRIATE FOR THE TYPE OF PROJECT FOR WHICH THESE GENERAL CONDITIONS ARE USED.

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Article 2 – General Laws Governing Construction

2.1 Compliance with Laws.

In the execution of the Contract Documents and the Work, Contractor shall comply with all applicable state and federal laws, rules, and regulations including, but not limited to, laws governing labor, equal employment opportunity, safety, environmental protection, and prevailing wage rates. Contractor shall be familiar, and at all times observe and comply with, all federal, state, and local laws, ordinances, and regulations that in any manner affect the conduct of the Work. Except where expressly required otherwise by applicable laws and regulations, neither the GLO nor the GDR shall be responsible for monitoring Contractor's compliance with any laws or regulations. Competent evidence of compliance with applicable laws shall be furnished.

2.1.1 Contractor shall cooperate with city or other governmental officials at all times where their jurisdiction applies. Contractor shall make application, pay all fees unless they are specifically noted as being paid or being waived by the GLO, and provide supporting documentation necessary to secure any permits which are required for the performance of the Contract Documents and the Work. Contractor has a continuing obligation throughout the term of the Contract to conduct his operation under duly issued permits and, in the event Contractor loses or has had revoked a necessary permit or if the permit expires, Contractor must take immediate steps to apply for and receive another permit.

2.1.2 Where the Underwriters' Laboratories have established standards and issued labels for a particular group, class, or type of equipment, the Underwriters' label shall be required on all equipment in that category. The International Building Code, National Electric Code, International Mechanical Code, and the International Plumbing Code (latest versions) shall be minimum requirements. Competent evidence of compliance with applicable codes shall be furnished.

2.2 State Sales and Use Taxes.

The GLO qualifies for exemption from State and Local Sales and Use Taxes pursuant to the provisions of Chapter 151, Texas Tax Code. Contractor may claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts.

2.3 Antitrust Claims.

Contractor hereby assigns to the GLO any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 U.S.C.A. Sec. 1 *et seq.*

2.4 Venue for Lawsuits.

The venue for any lawsuit arising from this Project shall be in a court of competent jurisdiction in Travis County, Texas.

2.5 Licensing of Trades.

Contractor shall comply with all applicable provisions of state law related to required licensing of skilled tradesmen, contractors, materialmen, suppliers and or laborers, as necessary to accomplish the Work.

In the event Contractor or any Subcontractor loses its license for any reason during the term of performance of the Contract, Contractor shall promptly hire or contract with a licensed provider of the service at no additional cost to the GLO.

2.6 Patents and Copyrights.

Contractor shall be responsible at all times for compliance with applicable patents or copyrights encompassing, in whole or in part, any design, device, material, or process utilized, directly or indirectly, in the performance of the Work.

Regardless of whether the GLO has specified the use of a particular design, devise, material, or process, Contractor shall pay all applicable royalties and license fees and shall provide, prior to commencement of the Work hereunder and at all times during the performance of same, for the lawful use of any design, device, material, or process covered by letters patent or copyright by suitable legal agreement with patentee, copyright holder, or their duly authorized representative.

2.7 Environmental Regulations.

At all times, Contractor shall conduct its activities in compliance with applicable laws and regulations and other requirements of the Contract relating to the environment and its protection. The GLO and Contractor are jointly responsible for obtaining and maintaining permits related to storm water run-off. Contractor covenants to conduct its operations consistent with storm water run-off permit conditions. Contractor shall be responsible for any hazardous materials brought to the site by Contractor, Subcontractor, Suppliers, or anyone else for whom Contractor is responsible. No hazardous materials shall be incorporated into the Work without prior approval of the GLO.

2.8 Lead and Asbestos.

Contractor is also responsible for performing investigations of lead and asbestos containing materials and any required lead and asbestos abatement. Contractor shall provide the GLO with a copy of a signed waste manifest from a proper disposal institution, in connection with Contractor's disposal of any lead or asbestos.

2.9 Antiquities.

Contractor shall take precaution to avoid disturbing primitive records and antiquities of archaeological, paleontological, or historical significance. No objects of this nature shall be disturbed without written permission of the GLO and the Texas Historical Commission. When such objects are uncovered unexpectedly, Contractor shall stop all Work in close proximity and notify GDR and the Texas Historical Commission of their presence and shall not disturb them until written permission and permit to do so is granted. All primitive rights and antiquities, as defined in chapter 191, Texas Natural Resource Code, discovered on the GLO's property shall remain property of the State of Texas and the Texas Historical Commission. If it is determined by the GLO in consultation with the Texas Historical Commission that exploration or excavation of primitive records or antiquities on Project Site is necessary to avoid loss, Contractor shall cooperate in salvage work attendant to preservation. If the Work stoppage or salvage work causes an increase in Contractor's cost of, or time required for, performance of the Work, Contractor may file with GDR a Notice of Claim as described in Article 14, Change Orders.

2.10 Franchise Tax Status.

Contractor agrees to execute and provide to the GLO a Certification of Franchise Tax Payment, on a form provided by the Texas Comptroller of Public Accounts.

2.11 Taxpayer and Vendor Account Information.

Contractor agrees to execute and provide to the GLO a Taxpayer and Vendor Account Information form, as obtained from the Texas Comptroller of Public Accounts, stating that Contractor is in "Good Standing" and not on "Vendor Hold."

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Article 3 – Compliance with Federal and State Laws

3.1 Federal Funding.

Funding for this Contract is appropriated under the Consolidated Appropriations Act, 2016 (Public Law 114-113), enacted on December 18, 2015, and the Consolidated Appropriations Act, 2017 (Public Law 115-31), enacted on May 5, 2017, to facilitate disaster recovery, restoration, economic revitalization, and to affirmatively further fair housing in accordance with Executive Order 12892, in areas affected by the Texas Severe Storms, Tornadoes, Straight-line Winds, and Flooding (DR-4223) and the Texas Severe Winter Storms, Tornadoes, Straight-line Winds, and Flooding (DR-4245); the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act (Public Law 114-223), enacted on September 29, 2016, the Further Continuing and Security Assistance Appropriations Act, 2017 (Public Law 114-254), enacted on December 10, 2016, and the Consolidated Appropriations Act, 2017, (Public Law 115-31), enacted on May 5, 2017, to facilitate disaster recovery, restoration, economic revitalization, and to affirmatively further fair housing in accordance with Executive Order 12892, in areas affected by the Texas Severe Storms, Tornadoes, and Flooding (DR-4266), the Texas Severe Storms and Flooding (DR-4269), and the Texas Severe Storms and Flooding (DR-4272); and the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56), enacted on September 8, 2017, and allocated to the State of Texas under U.S. Department of Housing and Urban Development Grant No. B-17-DM-48-001 to facilitate disaster relief, long term recovery, restoration of infrastructure and housing, economic revitalization, and to affirmatively further fair housing, in accordance with Executive Order 12892, in areas affected by Texas Hurricane Harvey, all of which are Presidentially-declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). Additional funding may be appropriated and/or allocated during the term of this Contract. The fulfillment of this Contract is based on those funds being made available to the GLO as the lead administrative state agency. All expenditures under this Contract must be made in accordance with this Contract, the rules and regulations promulgated under the CDBG-DR Program, and any other applicable laws. Further, Contractor acknowledges that all funds are subject to recapture and repayment for non-compliance.

3.2 Prevailing Wage Schedule.

Based on current Project conditions, the Federal Davis-Bacon Act does not apply to this Contract. However, if conditions change, and if applicable, Contractor shall be subject to some or all of the requirements thereof.

3.3 All Applicable Federal Laws.

Contractor shall be responsible for complying with all federal laws, rules, and regulations pertaining to the CDBG-DR Program contained in the list in Supplemental General Conditions and any that may become applicable throughout the term of the Contract. Contractor acknowledges that this list may not include all such applicable laws, rules, and regulations. **Contractor is deemed to have read and understands the requirements of each law, rule, and regulation, if applicable to the Project under the Contract.**

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Article 4 – Drawings and Specifications

4.1 Ownership of Drawings and Specifications.

All Drawings, Specifications, and copies thereof furnished by the GLO's vendors or contractors are, and shall remain, property of the GLO. They are not to be used on any other project by Contractor and, with the exception of one (1) Contract set, are to be returned to the GLO, upon request, following completion of the Work.

4.2 Copies Furnished.

Contractor will be furnished one complete set of the Contract Drawings and Specifications before on-site Work commences.

4.3 Interrelation of Documents.

The Drawings depict the location and quantity of elements of the Work. The Specifications indicate required minimum material standards. All documents are intended to be complementary to produce the Work.

4.4 Resolution of Conflicts in Documents.

4.4.1 In the event of conflict between or among Drawings and Specifications, the better quality or greatest quantity shall prevail. In the event of conflict among provisions of Specifications, using the CSI format, the specifications in the division of the predominant discipline will govern inconsistent provisions found elsewhere.

4.4.2 In the event of conflict among the drawings, the large-scale drawings prevail over the small-scale drawings.

4.5 Contractor's Duty to Review Contract Documents.

In order to facilitate its responsibilities for completion of the Work in accordance with and as reasonably inferable from the Contract Documents, prior to commencing the Work, Contractor shall examine and compare the Contract Documents; information furnished by the GLO pursuant to §4.7; relevant field measurements made by Contractor; and any visible conditions at the Site(s) affecting the Work. By accepting an assignment of a Project from the GLO or the GDR, Contractor affirms that a Site visit has occurred, all documents have been reviewed, and Contractor has identified all Work which must be completed on the Site and accepts the scope of Work which has been prepared.

4.6 Discrepancies and Omissions in Drawings and Specifications.

4.6.1 If, in the course of the performance of the obligations in §4.5, Contractor discovers any errors, omissions or inconsistencies in the Contract Documents, Contractor shall promptly report them to the GLO and and/or the GDR. It is recognized, however, that Contractor is not acting in the capacity of a licensed design professional, and that Contractor's examination is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions, or inconsistencies or to ascertain compliance with applicable laws, building codes, or regulations.

4.6.2 Contractor has no liability for errors, omissions, or inconsistencies described in §§4.5 and 4.6.1 unless Contractor knowingly failed to report a recognized problem to the GLO. If, however, Contractor fails to perform the examination and reporting obligations of these provisions, Contractor shall be responsible for any avoidable costs or direct damages.

4.6.3 Contractor shall propose the most practical solution to resolve the conflict or omission, requiring the minimum schedule and budget impact and furthering the best interest of the Project. The GLO shall evaluate the proposed solution and provide a response to Contractor. If the solution prompts changes to the Contract Sum or Contract Time, the Contract shall be adjusted under Article 14 by Change Order.

4.6.4 The GLO makes no representations, express or implied, about the adequacy or accuracy of the Drawings, Specifications, or other Contract Documents provided or their suitability for their intended use. The GLO expressly disclaims any implied warranty that the Contract Documents are adequate, accurate, or suitable for their intended use.

4.7 Other Information Provided to Contractor.

The GLO may provide Contractor with information, reports, pictures, or other items which are not contained within the Contract Documents, but which Contractor should review and use pursuant to §4.5.

4.8 Requirements for Record Documents.

Contractor shall maintain at each Site one (1) copy of all Drawings, Specifications, Addenda, approved Shop Drawings and Contract modifications, and all Project correspondence. Contractor shall also maintain on Site at all times physical proof that municipal codes and/or third-party inspections have been passed and accepted by the inspecting authority. Contractor shall maintain Drawings and Specifications in good order and marked to record all changes made during construction. Contractor shall give the GLO or its representatives and agents access to all onsite records at all times.

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Article 5 – Construction Bonds

5.1 Performance and Payment Bonds.

Prior to the assignment of any Work, Contractor is required to tender to the GLO performance and payment bonds.

5.1.1. Performance Bond: A Performance Bond is solely for the protection of the state. Contractor may choose to obtain an individual Performance Bond for the full amount of each Project or a blanket Performance Bond in an amount sufficient to provide coverage for any and all Projects assigned to Contractor at any given time. If Contractor opts to provide a blanket Performance Bond, the GLO shall only assign Work up to the amount of the blanket Performance Bond. Contractor may increase the amount of the blanket Performance Bond if Contractor's performance under the Program warrants the assignment of additional Projects. The form of any Performance Bond shall be provided by the GLO, as may be approved by the Attorney General of Texas.

5.1.2 Payment Bond: A Payment Bond is payable to the state and is solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with Contractor or a supplier of required materials or labor. Contractor may choose to obtain an individual Payment Bond for the full amount of each Project or a "blanket" Payment Bond in an amount sufficient to provide coverage for any and all Projects assigned to Contractor at any given time. If Contractor opts to provide a blanket Payment Bond, the GLO shall only assign Work up to the amount of the blanket Payment Bond. Contractor may increase the amount of the blanket Performance Bond if Contractor's performance under the Program warrants the assignment of additional Projects. The form of the Payment Bond shall be provided by the GLO, as may be approved by the Attorney General of Texas.

5.1.3 Corporate sureties authorized to issue bonds shall comply with relevant provisions of the Texas Insurance Code.

5.1.4 Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to the GLO, on the GLO's form. If any bond is for more than ten percent (10%) of the surety's capital and surplus, the GLO may require certification that the company has reinsured the excess portion with one or more reinsurers authorized, accredited, or trusted to do business in the State. A reinsurer may not reinsure for more than ten percent (10%) of its capital and surplus. If a surety upon a bond loses its authority to do business in the State, Contractor shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to the GLO.

5.1.5 Each bond shall be accompanied by a valid Power-of-Attorney (issued by the surety company and attached, signed and sealed with the corporate embossing seal, to the bond) authorizing the attorney-in-fact who signs the bond to commit the company to the terms of the bond, and stating any limit on the amount for which the attorney can issue a single bond.

5.2 Statutory Compliance.

The process of requiring and accepting bonds and making claims thereunder shall be conducted in compliance with the requirements of Chapter 2253 of the Texas Government Code.

5.3 Additional Copies.

The GLO shall furnish copies of a payment bond and the related Contract to any qualified person seeking copies who complies with the requirements of §2253.026, Texas Government Code.

5.4 Licensed Sureties.

Sureties shall be listed on the Department of Treasury's Listing of Approved Sureties, a catalog of companies holding Certificates of Authority as acceptable sureties on Federal bonds and acceptable reinsuring companies (Department Circular 570).

5.5 Claims on Bonds.

Claims on Payment Bonds must be sent directly to Contractor and his surety in accordance with the requirements of §2253.041, Texas Government Code. All Payment Bond claimants are cautioned that no lien exists on the funds unpaid to

Contractor under the respective Contract, and that reliance on notices sent to the GLO may result in the loss of rights against Contractor and/or the surety. The GLO is not responsible in any manner to a claimant for collection of unpaid bills and accepts no such responsibility because of any representation by Contractor or the GLO or their agents or employees.

5.6 Property Liens Strictly Prohibited.

Payment Bond claimants are strictly prohibited from placing liens on any Applicant or Homeowner Property(ies), and Contractor is solely responsible for informing claimants of such strict prohibition.

5.7 Removal of Property Lien Filed.

Contractor is solely responsible for the removal, and any associated expense involved therewith, of any lien placed by a claimant under a Payment Bond on the Property of any Applicant or Homeowner, irrespective of the fault or cause of such attachment.

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Article 6 – Insurance Requirements

6.1 Insurance Requirements.

6.1.1 Contractor shall carry insurance in the types and amounts indicated in this Article for the duration of the Contract, which shall include items owned by the GLO in the care, custody, and control of Contractor prior to, during construction, and during the warranty period. Contractor must also complete and file the declaration pages from the insurance policies with the GLO whenever a previously identified policy period expires during the term of the Contract, as proof of continuing coverage. Acceptance of the insurance policy declaration pages by the GLO shall not relieve or decrease the liability of Contractor. Contractor shall update all expired policies prior to submission for monthly payment. Failure to update policies shall be reason for payment to be withheld until evidence for renewal is provided to the GLO.

ARTICLE 6 CONTINUED ON THE FOLLOWING PAGE

6.1.2 Unless otherwise provided for in Supplementary General Conditions, Contractor shall procure, maintain, and provide the minimum insurance coverage in the minimum amounts described below until the Work covered in the Work Order(s) is completed and accepted by the GLO. Coverage shall be written on an occurrence basis by companies authorized and admitted to conduct business in the State of Texas and rated A- or better by A.M. Best Company, or otherwise acceptable to the GLO.

REQUIRED INSURANCE COVERAGE PER WORK ORDER:

TYPES OF COVERAGE		LIMITS OF LIABILITY
a. Worker's Compensation		
Statutory		
b. Employer's Liability		
Bodily Injury by Accident		\$500,000 Ea. Accident
Bodily Injury by Disease		\$500,000 Ea. Employee
Bodily Injury by Disease		\$500,000 Policy Limit
c. Commercial General Liability, including coverage for the following:		
Premises Operations		Combined single limit for bodily injury and property damage of \$1,000,000 per occurrence or its equivalent
Independent Contractors		
Products/Completed Operations		
Personal Injury		
Contractual Liability		
Explosion, Collapse, Underground		
Broad form property damage, to include fire legal liability		
d. Business Automobile Liability owned/leased, owned, hired		
Combined single limit for Non-Bodily Injury and Property Damage of \$1,000,000 per occurrence or its equivalent.		
e. The GLO's Protective Liability Insurance Policy, naming the State of Texas and its employees as insured with the following limits:		
Bodily Injury		\$1,000,000 Each Occurrence
		\$1,000,000 Aggregate
f. Builder's Risk Insurance		
Must have an all risk policy, in the amount equal at all times to one hundred percent (100%) of the Work Order total sum. The policy shall include coverage for loss or damage caused by certified acts of terrorism as defined in the Terrorism Risk Insurance Act. The policy shall be issued in the name of Contractor and shall name his Subcontractors as additional insureds. The GLO shall be named as a loss payee on the policy. The builder's risk policy shall have endorsements as follows:		
1. This insurance shall be specific as to coverage and not considered as contributing insurance with any permanent insurance maintained on the present premises. If off Site storage is permitted, coverage shall include transit and storage in an amount sufficient to protect property being transported or stored.		
2. For renovation Projects and or portions of Work contained within an existing structure, the GLO waives subrogation for damage by fire to existing building structure(s), if the builder's risk policy has been endorsed to include coverage for existing building structure(s) in the amount described in the Special Conditions. However, Contractor shall not be required to obtain such an endorsement unless specifically required by the Special Conditions. In this Contract, the aforementioned waiver of subrogation shall not be effective unless such endorsement is obtained.		
g. Flood insurance when specified in Supplementary General Conditions or Special Conditions.		
h. Umbrella coverage when specified in Supplementary General Conditions or Special Conditions.		

THE ABOVE INSURANCE REQUIREMENTS ARE NOT INTENDED TO BE COMPOUNDED WITH CONTRACTOR'S STANDING INSURANCE POLICIES. IF CONTRACTOR ALREADY HAS IN FORCE INSURANCE POLICIES WHICH PROVIDE THE REQUIRED COVERAGE, THERE IS NO NEED TO PURCHASE DUPLICATE COVERAGE FOR THIS PROJECT.

HOWEVER, THE GLO SHALL BE NAMED AS AN ADDITIONAL INSURED, AND THE GLO CONTRACT NUMBER SHALL BE REFERENCED IN THE COMMENTS SECTION OF THE CERTIFICATE(S).

6.1.3 Policies must include the following clauses, as applicable:

6.1.3.1 “This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days’ prior written notice, or ten (10) days for non-payment of premium, has been given to the GLO.”

6.1.3.2 “It is agreed that Contractor’s insurance shall be deemed primary with respect to any insurance or self-insurance carried by the GLO for liability arising out of operations under the Contract with the GLO.”

6.1.3.3 “The GLO, its officials, directors, employees, representatives, and volunteers are added as additional insured as respects operations and activities of, or on behalf of, the named insured and performed under contract with the GLO.” **This is not applicable to the workers’ compensation policy.**

6.1.3.4 “The workers’ compensation and employers’ liability policy will provide a waiver of subrogation in favor of the GLO.”

6.1.4 Workers’ Compensation Insurance Coverage.**6.1.4.1** Definitions.

“Certificate of coverage” or “certificate” means a copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance Division of Workers’ Compensation, or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers’ compensation insurance coverage for the person’s or entity’s employees providing services on a Project, for the duration of the Project.

“Duration of the Project” includes the time from the beginning of the Work on a Project until the Contractor’s/person’s Work on the Project has been completed and accepted by the governmental entity.

“Coverage” means workers’ compensation insurance meeting the statutory requirements of the Texas Labor Code, §401.011(44).

“Persons providing services on the Project” or “subcontractor” includes all persons or entities performing all or part of the services Contractor has undertaken to perform on a Project, regardless of whether that person contracted directly with Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, Subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnished persons to provide services on the Project. “Services” include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a Project. “Services” does not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

6.1.4.2 Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of Contractor providing services on any Project, for the duration of the Project.

6.1.4.3 Contractor must provide a certificate of coverage to the GLO prior to being awarded the contract.

6.1.4.4 If the coverage period shown on Contractor’s current certificate of coverage ends during the duration of the Project, Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

6.1.4.5 Contractor shall obtain from each person providing services on a Project, and provide to the GLO:

- (a) a certificate of coverage, prior to that person beginning Work on the Project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the Project; and

- (b) no later than seven (7) days after receipt by Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

6.1.4.6 Contractor shall retain all required certificates of coverage in accordance with Section 4.02 of the Contract.

6.1.4.7 Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on a Project.

6.1.4.8 Contractor shall post on each Project Site a notice, in the text, form and manner prescribed by the Texas Department of Insurance Division of Workers' Compensation, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

6.1.4.9 Contractor shall contractually require each person with whom it contracts to provide services on a Project to:

- (a) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the Project, for the duration of the Project;
- (b) provide to Contractor, prior to that person beginning Work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project, for the duration of the Project;
- (c) provide Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
- (d) obtain from each other person with whom it contracts, and provide to Contractor:
 - i) a certificate of coverage, prior to the other person beginning Work on the Project; and
 - ii) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
- (e) retain all required certificates of coverage on file for the duration of the Project and for one (1) year thereafter;
- (f) notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and
- (g) contractually require that each person with whom it contracts, to perform as required by paragraphs (i)-(vii), with the certificates of coverage to be provided to the person for whom they are providing services.

6.1.4.10 By signing this Contract or providing or causing to be provided a certificate of coverage, Contractor is representing to the governmental entity that all employees of Contractor who will provide services on the Project(s) will be covered by workers' compensation coverage for the duration of the Project(s), that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-

Insurance Regulation. Providing false or misleading information may subject Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

6.1.4.11 Contractor's failure to comply with any of these provisions is a breach of Contract by Contractor which entitles the governmental entity to declare the Contract void if Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the governmental entity.

6.1.5 If insurance policies are not written for the amounts specified in §6.1.2, Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of primary coverage.

6.2 Modifications.

The furnishing of the above listed insurance coverage, as may be modified by Supplemental General Conditions or Special Conditions, must be tendered to the GLO prior to the assignment of any Work. Failure to provide the insurance in a timely fashion may result in loss of Contractor's bid bond.

6.3 Copies.

The GLO shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements as they apply to the limits set out in §6.1.2.

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Article 7 – General Responsibilities of the GLO and Contractor

7.1 The GLO's General Responsibilities.

7.1.1 Generally. The GLO is the entity identified as such in the Contract and is referred to throughout the Contract Documents as if singular in number.

7.1.2 Preconstruction Conference. Prior to, or concurrent with, the issuance of Notice to Proceed, a conference will be held attended by the GLO, Contractor, and Subcontractors, as appropriate, to establish a working understanding among the parties as to the Work, the operational conditions at the Project Site(s), and general administration of the Project(s), including communications, schedules, procedures for handling Shop Drawings, and other submittals, processing the Contractor Request for Payment form, maintaining required records, and all other matters of importance to the administration of the Project(s) and effective communications on Site(s).

7.1.3 The GLO's Designated Representative. Prior to the start of construction, the GLO shall designate the GLO's Designated Representative ("GDR"), who shall have express authority to act and bind the GLO to the extent and for the purposes described in the various Articles of the Contract, including responsibilities for general administration of the Contract. Unless otherwise specifically provided for, GDR is the single point of contact between the GLO and Contractor. Notice to GDR, unless otherwise noted, constitutes notice to the GLO under the Contract.

7.1.4 The GLO's Requirements. The GLO shall furnish all surveys describing the physical characteristics, legal description and limitations, Site utility locations, and other information under the GLO's control to Contractor. Necessary actions of the GLO, including processing of payments to Contractor, shall be accomplished with reasonable promptness and subject to Article 13 hereof. The GLO shall pay for all routine testing of materials agreed by the GLO to be required by the Contract Documents, except when for retesting of materials failing the initial test is required, in which instance the cost of re-inspection will be paid for by Contractor; provided, however, any special testing which is specifically required in the scope of Work and listed in a technical section of the Specifications shall be paid by Contractor.

7.1.5 GLO-supplied materials and information. Information, equipment, or services under the GLO's control shall be furnished by the GLO to Contractor with reasonable promptness to avoid delay in orderly progress of the Work.

7.1.6 Other Governing Authorities. The foregoing listing is in addition to the specific duties and authority of the GLO and GDR found in other Articles of the Contract.

7.1.7 Availability of Lands. The Contractor-Homeowner Agreement(s) shall confer all required rights to use the lands upon which the Work is to be performed. Required rights-of-way, easements for access thereto, and such other lands that are designated for use by Contractor shall be provided by the GLO to the extent possible, and the GLO shall identify any encumbrances or restrictions specifically related to use of lands so furnished, with which Contractor must comply. Easements for permanent structures or permanent changes in existing facilities will be provided by the GLO unless otherwise provided in the Contractor-Homeowner Agreement(s) or in the Contract Documents. If the GLO fails to furnish rights of way or easements in a timely manner, Contractor shall document such delay and, if critical path activities in the approved construction schedule are materially impacted, Contractor may furnish to the GLO proof of such delay and impact and may request a corresponding extension to the construction schedule, in accordance with Article 14, Change Orders.

7.2 Limitation on the GLO's and GDR's Duties.

The GLO and GDR will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, technologies, sequences, or procedures of construction or the safety precautions and programs incident thereto. The GLO and GDR are not responsible for any failure of Contractor to comply with laws and regulations applicable to furnishing or performing the Work. The GLO and GDR are not responsible for the failure of Contractor to perform or furnish the Work in accordance with the Contract Documents. The GLO and GDR are not responsible for the acts or omissions of Contractor, or of any Subcontractor, any supplier, or of any other person or organization performing or furnishing any of the Work.

7.3 Contractor's General Responsibilities.

7.3.1 Supervision of Work. Contractor is the person or entity identified as such in the Contract and is referred to throughout the Contract Documents as if singular in number. Contractor shall supervise and direct the Work using the best skill and attention to assure that each element of the Work conforms to the Contract requirements. Contractor shall be solely responsible for all construction means, methods, techniques, safety, sequences, and procedures, and for scheduling and coordinating all portions of the Work under the Contract. Contractor shall be responsible to see that the completed Work complies accurately with the Contract Documents.

7.3.2 Federal Registration. All participants in the CDBG-DR grant program must have a data universal numbering system ("DUNS") number, as well as a Commercial And Government Entity ("CAGE") Code.

7.3.3 Reporting Federal Registration. The DUNS number and CAGE Code must be reported to the GLO for use in various grant reporting documents, and may be obtained by visiting the Central Contractor Registration web site at:

for DUNS: <http://fedgov.dnb.com/webform>;
and for CAGE, register in the SAM at <https://www.sam.gov/>
Assistance with this web site may be obtained by calling 877-252-2700.

7.3.4 Assignment of Project. As part of this Contract, based on factors determined by GDR, Contractor will be assigned a Project, under a Work Order, for completion per the agreed costs. With assistance from the CDBG-DR Case Manager/Mobility Counselor, an informational Pre-Construction Conference between Contractor and Homeowner will be conducted, during which meeting Contractor and Homeowner will execute a Contractor-Homeowner Agreement and a Pre-Construction Conference Report and Notice to Proceed (GLO Form 11.02) for the Project. The forms will be provided by the GLO either on its website at <http://recovery.texas.gov/resources/housing/index.html> or as an attachment to the Contract. When the Contractor-Homeowner Agreement and Form 11.02 are fully executed, the Project will be fully authorized under the relevant Work Order and will be subject to both this Contract, the Contractor-Homeowner Agreement, and the Form 11.02.

7.3.5 Due Diligence Responsibility. All investigation into ownership of the Property is Contractor's responsibility. Contractor is solely responsible for verifying that Homeowner's residence, once complete and affixed to the Property, does not violate or interfere with any applicable recorded instrument or governmental regulation affecting the Property. The GLO has not obtained an abstract of title, title insurance policy, title commitment, or similar item, and the GLO makes no representations or warranties as to title to, or encumbrances upon, the Property.

7.3.6 Information. Contractor is responsible for providing open channels of communication among Homeowner, the GLO, GDR, and Inspectors including, but not limited to, informing Homeowner of what to expect during the construction phase.

7.3.7 Rental Assistance. Contractor is responsible for providing rental assistance to Homeowner if construction is not completed within one hundred twenty (120) days of the Notice to Proceed, regardless of the cause of the delay, according to §23.2.

7.3.8 Utilities. Contractor shall be responsible for notifying Homeowner when to disconnect and reconnect utilities and for any fees related thereto. Contractor is also responsible for reimbursing Homeowner for utility costs incurred while rehabilitation or repair work is performed.

7.3.9 Project Administration. Contractor shall provide Project administration in accordance with provisions outlined in the Pre-Construction Conference.

7.3.10 Contractor's Superintendent. Contractor shall employ a competent resident superintendent who shall be in attendance at the Project Site during the progress of the Work and must be present at all scheduled Site visits performed by the GLO or the GDR and any other inspection. The superintendent shall be satisfactory to the GLO and shall not be changed except with the written approval of the GLO. The superintendent shall represent Contractor at the Site and shall have full authority to act on behalf of Contractor including, but not limited to, signature authority for progress payments and Change Orders. All communications given to the superintendent shall be binding on Contractor. All oral

communications affecting Contract Time, Project Sum, and interpretation of the Contract Documents will be confirmed in writing to the GLO.

7.3.11 Labor. Contractor shall provide competent, suitably qualified personnel to survey, lay out, and construct the Work as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site(s).

7.3.12 Services, Materials, and Equipment. Unless otherwise specified in the Supplemental General Conditions, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work. Contractor shall provide, without extra charge, all incidental items required as a part of the Work, even though not particularly specified or indicated in the Contract.

7.3.13 No Substitutions Without Approval. Contractor may make substitutions only with the consent of the GLO, within thirty (30) days from the Notice to Proceed, and after evaluation and recommendation by the GLO and in accordance with a Change Order. If Contractor has good reason for objecting to the use of a material, appliance, or method of construction as shown or specified, it shall register its objections with the GLO in writing; otherwise, it shall proceed with the Work with the understanding that a satisfactory job is required.

7.3.14 Documents and Samples at the Site. Contractor shall maintain at the Site(s) for the GLO one (1) record copy of the Drawings, Specifications, addenda, Change Orders, and other modifications, in good order and marked currently to record field changes and selections made during construction; and one (1) record copy of approved Shop Drawings, Samples, and similar required submittals. These shall be available to the GLO and shall be delivered to GDR for submittal to the GLO upon completion of the Work. Contractor shall also maintain on Site at all times physical proof that municipal codes and/or third-party inspections have been passed and accepted by the inspecting authority.

7.3.15 Non-Compliance. If any Work is identified by either the GLO and/or GDR as not being in compliance with HUD Program requirements or the Contract Documents, GDR shall communicate the finding to Contractor and the GLO and such Work shall be corrected by Contractor at its expense. Contractor is not relieved from compliance with all requirements of the Contract Documents where such requirements are not judged at the time of observation of the Work due to Work sequences by Contractor or the lack of time to judge the performance characteristics of the particular Work item.

7.3.16 Subcontractors. Contractor shall not employ any Subcontractor, supplier or other person or organization, whether initially or as a substitute, against whom the GLO may have reasonable objection. The GLO will communicate such objections in writing. If a rejection causes a change to the Contract Sum, Contractor may file a Contractor-initiated claim under Article 14, Change Orders. Contractor shall not be required to employ any Subcontractor, supplier, or other person or organization to furnish any of the Work to whom Contractor has reasonable objection. Contractor will not substitute Subcontractors without the approval of the GLO.

7.3.16.1 Contractor shall enter into written agreements with all Subcontractors and suppliers which specifically bind Subcontractors and suppliers to the terms and conditions of the Contract Documents for the benefit of the GLO.

7.3.16.2 Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, suppliers, and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor. Contractor shall require all Subcontractors, suppliers, and such other persons and organizations performing or furnishing any of the Work to communicate with the GLO through Contractor.

7.3.17 Continuing the Work. Unless otherwise directed by the GLO in writing, Contractor shall carry on the Work and adhere to the Project schedule during all disputes, disagreements, or alternative resolution processes with the GLO. No Work shall be delayed or postponed pending resolution of any disputes, disagreements, or processes, except as directed by the GLO in writing.

7.3.18 Acts and Omissions of Contractor, Subcontractors and employees. Contractor shall be responsible for acts and omissions of its employees and its Subcontractors, their agents and employees. The GLO may, in writing, require Contractor to remove from the Work any of its or its Subcontractors' employees that the GLO and/or GDR finds to be careless, incompetent, or otherwise objectionable.

7.3.19 INDEMNIFICATION OF THE GLO. CONTRACTOR COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, THE GLO AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS, AND REPRESENTATIVES OF THE GLO, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON THE GLO DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT, INCLUDING ANY ACTS OR OMISSIONS OF CONTRACTOR, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF CONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OF PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF THE GLO, OFFICERS OR EMPLOYEES, SEPARATE CONTRACTORS OR ASSIGNED CONTRACTORS, IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE. IN THE EVENT CONTRACTOR AND THE GLO ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

7.3.19.1 THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

7.3.19.2 CONTRACTOR SHALL PROMPTLY ADVISE THE GLO IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE GLO OR CONTRACTOR KNOWN TO CONTRACTOR RELATED TO, OR ARISING OUT OF, CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT.

7.3.19.3 THE GLO RESERVES THE RIGHT TO PROVIDE ITS OWN DEFENSE TO ANY SUIT OR CLAIM OF INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE OR SERVICE MARK, OR ANY OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHT, IN WHICH EVENT CONTRACTOR SHALL INDEMNIFY AND SAVE HARMLESS THE GLO FROM ALL COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND JUDGMENTS, ARISING FROM SUCH DEFENSE.

7.3.20. Site Conditions. Contractor will operate and maintain operations areas and associated storage areas at each Site of the Work in accordance with the following:

7.3.20.1 All Contractor operations, including storage of materials and employee parking upon the Work Site, shall be confined to areas designated or agreed to by the GLO.

7.3.20.2 Contractor shall at all times keep construction areas, including storage areas used by it, free from the accumulation of water, waste materials, or rubbish during performance of the Work. During the period of construction, and not less frequently than once a week, Contractor shall remove from the Site any and all waste materials, rubbish, and trash, and shall dispose of such waste materials, rubbish, and trash off the property of the GLO. Prior to Contractor's requested date for a Final Inspection, Contractor shall remove any and all remaining equipment from the Site and shall leave the premises in a clean, neat, and workmanlike condition satisfactory to the GLO.

7.3.20.3 Contractor will use only established roadways or construct and use such temporary roadways as may be authorized by the GLO. Load limits of vehicles shall not exceed the limits prescribed by appropriate regulations of law. Contractor will provide protection to road surfaces, curbs, sidewalks, trees, shrubbery, sprinkler systems, drainage structures and other like existing improvements to prevent damage, and any damage thereto shall be repaired by and at the expense of Contractor. The GLO may restrict Contractor's entry to the Site to specifically assigned entrances and routes.

7.3.20.4 Contractor may erect temporary buildings at its expense, which shall remain its property. Contractor shall remove such buildings and associated utilities service lines upon completion of the Work, unless Contractor requests to abandon such buildings and utilities in place, and the GLO provides written consent.

7.3.21 Royalties and Patents. Contractor shall pay all royalties and license fees and defend all suits or claims for infringement of any patent rights and shall hold the GLO and its representatives harmless from loss on account thereof.

7.3.22 Other Governing Authorities. The duties listed above are in addition to the duties, responsibilities, and activities to be undertaken by Contractor as specified throughout the Articles of the Contract.

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Article 8 – Additional Contractor Responsibilities when the GLO Awards Separate Contracts

8.1 Separate Contracts.

The GLO reserves the right to award other contracts in connection with other portions of the Project(s) under these or similar contract conditions. The GLO reserves the right to perform operations related to the Project(s) with the GLO's own forces. Each separate contractor shall undertake to indemnify the GLO as set forth in §§7.5.12 and 7.5.19.

8.1.1 Generally. When separate contracts are awarded for different portions of the Project(s), "Contractor" in the Contract Documents in each case shall be the Contractor who signs each separate Contract. Contractor shall cooperate with the separate contractors and the GLO's own forces. Contractor shall properly connect and coordinate its Work with the work of the separate contractors as defined in these Contract Documents. If any part of Contractor's Work depends for proper execution or proper results on the work of any of the separate contractors, Contractor shall inspect and promptly report in writing to GDR any visually apparent discrepancies or defects found in such other work that render it unsuitable for such proper execution and results. Failure of Contractor to so inspect and report the visually apparent discrepancies or defects shall constitute an acceptance of the separate contractor's work as fit and proper to receive Contractor's Work, except as to defects which may develop in the separate contractor's work after the execution of Contractor's Work.

8.1.2 Delay or Damage. Should Contractor cause delay or damage to the Work or property of any separate contractor on a Project, Contractor shall, upon due written notice, endeavor to settle with the separate contractor by agreement. If such separate contractor does not settle with Contractor, the GLO shall initiate a Dispute Resolution process and each party to the dispute shall be financially accountable for any damages or loss based on their proportionate fault determined by the Dispute Resolution process.

8.1.3 Access. Contractor shall afford the GLO, the separate contractors, and the GLO's own forces, as necessary, reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work.

8.1.4 The GLO's Rights. The GLO reserves the right to make essential installations that are pertinent to the early use of a building or Project. Within this right, the GLO may let other contractors make the installations or may do such work with its own labor forces and materials. Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or supplier, or by the GLO's employees. Contractor shall cooperate to the end that the GLO may realize complete functioning of the building or Project on the day of Final Completion.

8.2 Coordination.

The GLO shall provide for coordination of the activities of the GLO's own forces and of each separate contractor with the Work of Contractor, who shall cooperate with them. Contractor shall participate with other separate contractors and the GLO in reviewing the respective construction schedules, when directed to do so. Contractor shall make any revisions to his construction schedule as necessary, after receiving the GLO's instruction.

8.3 Liability.

The GLO shall be reimbursed by Contractor for costs incurred by the GLO which are payable to a separate contractor because of delays, improperly timed activities, or defective construction by Contractor. The GLO shall be responsible to Contractor for costs incurred by Contractor because of delays, improperly timed activities, damage to the Work, or defective construction by a separate contractor. Contractor may make claim for such amounts as outlined in Article 14, Change Orders.

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Article 9 – Contractor Responsibility for Jobsite Safety

9.1 Generally.

Unless otherwise specified in the Specifications, Contract Documents, or Supplementary General Conditions, Contractor shall be responsible for initiating, maintaining, supervising, and enforcing all safety precautions and programs in connection with the Work. It shall be the duty and responsibility of Contractor and all of its Subcontractors to be familiar and comply with all requirements of the Occupational Safety and Health Act of 1970 (OSHA), Public Law 91-596, 29 U.S.C. §§ 651 et. seq., and all amendments thereto, and to enforce and comply with all of the provisions of the Act. Contractor shall comply with all applicable laws and regulations of any public body having jurisdiction for safety of persons or property to protect them from damage, injury, or loss and shall erect and maintain all necessary safeguards for such safety and protection.

9.1.1 Notification. Contractor shall notify owners of adjacent property and of underground facilities, and utility owners when prosecution of the Work may affect them or their facilities, and shall cooperate with them in the protection, removal, relocation, and replacement of their facilities and/or utilities.

9.2 Emergency.

In any emergency affecting the safety of persons or property, Contractor shall act reasonably to prevent threatened damage, injury, or loss. Contractor shall give GDR and the GLO prompt notice if Contractor believes that any significant changes in the Work or variations from Contract Documents have been caused by its emergency response. Any additional compensation or extension of time claimed by Contractor resulting from emergency Work shall be considered in accordance with Article 14, Change Orders.

9.2.1 Required Response. Authorized agents of Contractor shall respond immediately to call out at any time of day or night when circumstances warrant the presence of Contractor to protect the Work or adjacent property from damage, restriction, or limitation, or to take such action pertaining to the Work as may be necessary to provide for the safety of the public. Should Contractor fail to respond, the GLO is authorized to direct other forces to take action as necessary and the GLO may deduct any cost of remedial action from the funds due Contractor under the Contract.

9.3 GDR Notification.

In the event of an incident or accident involving outside medical care or a lost time injury to an individual on or near the Work, Contractor shall notify GDR as soon as possible within twenty-four (24) hours of the event. Contractor shall record the location of the event and the circumstances surrounding the event, by using photography or other means, and shall gather witness statements and other documentation that describes the event. Contractor shall supply GDR and the GLO with a set of incident investigation documents no later than thirty-six (36) hours after the occurrence of the event. In the event of a catastrophic incident, defined as one (1) fatality or three (3) workers hospitalized, the scene of the incident shall be barricaded and left intact until all investigations are completed.

9.4 Environmental Safety and Control.

Upon encountering any previously unknown potentially hazardous material, or other materials potentially contaminated by hazardous material, Contractor shall immediately stop Work in and secure the affected area and notify GDR. All subcontracts shall expressly bind Subcontractors to the same duty. On receiving such notice, GDR shall promptly engage qualified experts to make such investigations and conduct such tests as may be reasonably necessary to determine the existence or extent of any environmental hazard. As soon as possible upon completion of this investigation, GDR shall issue a written report to Contractor identifying the material or materials found and indicating any necessary steps to be taken to treat, handle, transport, or dispose of the material. The GLO may hire third-party contractors to perform any or all such steps. Should compliance with GDR's instructions result in an increase in Contractor's cost of performance, or delay the Work, an adjustment in the Contract Sum or time may be claimed by Contractor pursuant to the provisions of Article 14, Change Orders.

9.4.1 Notification. Contractor shall be responsible for coordinating the exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the site in connection with laws and regulations.

9.5 Trenching Safety.

Trenching safety precautions, applicable only if a Project requires excavation that exceeds a depth of five (5) feet, shall comply with the following:

9.5.1 Trenching Plan. Contractor will submit a trenching plan to the GLO within fifteen (15) days, if required. The plan will be approved and sealed by a professional engineer registered in the State of Texas and employed by Contractor. Said engineer cannot be anyone who is employed on a Project by the GLO.

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Article 10– Materials and Workmanship; Licensing, and Testing

10.1 Materials and Workmanship.

Contractor warrants and guarantees that all Work shall be executed in a good workmanlike matter in accordance with the Contract Documents, complete in all parts and in accordance with approved practices and customs. Unless otherwise specified, all materials and equipment incorporated into the Work under Contract shall be new.

10.2 Contractor's Warranty of Workmanship.

10.2.1 Limits on Warranty. Contractor's Warranty and guarantee hereunder excludes defects or damage caused by:

- a. Abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, suppliers, or any other individual or entity for whom Contractor is responsible, or
- b. Normal wear and tear under normal usage.

10.2.2 Events Not Affecting Warranty. Contractor's obligation to perform and complete the Work in a good and workmanlike manner in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

- a. Observations by the GLO;
- b. Recommendations to pay any progress or final payment;
- c. The issuance of a certificate of Final Completion or any payment by the GLO to Contractor under the Contract Documents;
- d. Use or occupancy of the Work or any part thereof by the GLO;
- e. Any acceptance by the GLO or any failure to do so;
- f. Any review of a Shop Drawing or sample submittal; or
- g. Any inspection, test, or approval by others.

10.3 Routine Testing.

If the Contract Documents, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any Work to be inspected, tested, or approved, Contractor shall give the GLO timely notice of its readiness and of the date arranged so the GLO or the GDR may observe such inspection, testing, or approval. Should the material or Work fail to comply with the requirements of the Contract Documents, Contractor shall bear all costs of the testing, inspection, or approval, as well as the cost of replacement of unsatisfactory material or Work as provided by Article 12; otherwise, the GLO shall bear such costs and an appropriate Change Order shall be issued, per Article 14.

10.3.1 Responsibility. The costs of routine testing shall be borne by the GLO, but Contractor shall be responsible for the cost of material tested. When directed by the GLO, demonstration of a material's compliance with the specifications shall be made by one of the following:

- a. Manufacturer's certificate of compliance;
- b. Mill certificate;
- c. Testing laboratory certification; or
- d. Report of actual laboratory test from the GLO's laboratory or from a laboratory satisfactory to the GLO. Samples tested shall be selected by or in the presence of the GLO and the method of testing shall comply with the professional societies' standard specifications.

10.3.2 Necessity. Materials incorporated into the Project(s) may be subject to routine tests as specified or as deemed necessary by GDR the GLO to ensure their compliance with the specifications. Materials to be tested may include, but are not limited to, the following:

- a. Concrete – Primary mix design, slump tests and cylinder compression tests.
- b. Steel – Tensile tests.
- c. Welds – Field inspection and X-ray equipment.
- d. Soils – Subsoil investigation, physical analysis, and compaction tests.
- e. Pavement – Physical analysis and compaction tests.
- f. Roofing – Samples cut from in-place roof.

Any other basic materials for which standard laboratory test procedures have been established may also be included if doubt as to their quality should arise. Any testing, as described, will be done at the discretion of the GLO who will bear all costs. Contractor shall be held responsible for providing samples of sufficient size for test purposes and for cooperating with the GLO or designee in obtaining and preparing samples for tests. All tests will be in accordance with standard test procedures and will be performed by a laboratory selected by the GLO. Results of all tests will be provided to the GLO and Contractor.

10.3.2.1 Not included in tests provided by the GLO are:

- a. Any test of basic material or fabricated equipment offered as a substitute for a specified item on which a test may be required in order to prove its compliance with the Specifications, which testing shall be paid for by Contractor.
- b. Routine or preliminary tests on mechanical systems required to ensure their proper installation and operation, prior to final testing and balancing, and any other requirements described in other Contract Documents or specifications shall be paid for by Contractor. Final testing and balancing shall be paid for by Contractor and be performed by an independent, certified testing and balancing firm approved by the GLO.
- c. Testing required to certify the acceptability of repairs to damaged materials or equipment shall be paid for by Contractor.

10.3.3 Compliance. Should any of the routine tests indicate that a material does not comply with the job requirements, the burden of proof of compliance shall be with Contractor, subject to the following conditions:

- a. Contractor may select the laboratory for further testing, but selection must be approved by the GLO;
- b. Quality and nature of tests will be determined by the GLO;
- c. All tests shall be taken in the presence of the GLO or GDR;
- d. If tests prove that the material complies with specifications, the laboratory fees will be paid by the GLO. If noncompliance is proved, laboratory fees will be paid by Contractor; and
- e. Proof of noncompliance will make Contractor liable for any corrective action which the GLO feels is prudent, including complete removal and replacement of defective material.

10.3.3.1 All subsequent tests on original or replaced materials conducted as a result of prior failure will be paid by Contractor.

10.3.4 Special Testing. The GLO may require special inspection, testing, or approval of material or Work in addition to that which may be specified for compliance with requirements of the Contract Documents. Upon direction by the GLO for additional special testing, Contractor shall promptly arrange for such special testing, inspection or approval procedure. The costs of special testing shall be at the GLO's expense except, if the materials fail, Contractor shall pay the expense; provided however, that the entire cost of any additional testing, whether routine or special, required because of failure of a prior test shall be borne by Contractor.

10.4 Opportunity to Review.

If any Work (or the Work of others) that is to be inspected, tested, or approved is covered by Contractor without providing the GLO, GDR, or Inspector an opportunity to review based on written notification as set forth in §12.2.3 or if any Work is covered contrary to the written request of the GLO or GDR or as specifically indicated elsewhere in the Contract Documents, the covered Work must, if requested by the GLO or GDR, be uncovered and recovered at Contractor's expense, except as set forth in §12.3.2.4.

10.5 Contractor's Testing.

Nothing contained herein is intended to imply that Contractor does not have the right to have tests performed on any material at any time for his own information and job control so long as the GLO is not charged for costs or forced to rely upon such tests when appraising quality of materials. Any modification of, or elaboration on, these test procedures which may be included for specific materials under their respective specification sections shall take precedence over these procedures and all testing required in the technical specification sections shall be the responsibility of Contractor to coordinate and pay for.

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Article 11 – Shop Drawings and Submittals

11.1 Intent of Contract Documents.

It is not the intent of the Specifications or Contract Documents to limit materials, equipment, or fixtures to the product of any particular manufacturer. Where definite materials, equipment, and/or fixtures have been specified by name, manufacturer or catalog number, it has been done to set a definite standard and a reference for comparison as to quality, application, physical conformity, and other characteristics. It is the GLO's intention to not discriminate against or prevent any dealer, jobber, or manufacturer from furnishing materials, equipment, and/or fixtures which meet or exceed the characteristics of the specified items. If Contractor wishes to substitute any materials, equipment, and/or fixtures which have been specified by name, manufacturer, or catalog number, Contractor must submit a request for substitution in writing to the GLO before utilizing said materials, equipment, and/or fixtures. Substitution of materials, equipment, and/or fixtures shall not be made without prior written approval from the GLO.

The GLO shall be the final judge of whether a proposed substitution meets the required characteristics of a specified item and such decisions of the GLO shall be final and conclusive.

11.2 Unauthorized Substitutions at Contractor's Risk.

All proposed substitution of materials, equipment, or fixtures shall be presented through the submittal process. Contractor shall be financially responsible for any additional costs or delays resulting from using materials, equipment, or fixtures other than those specified or approved by the GLO as a substitute item and shall reimburse the GLO for any increased design or contract administration costs resulting from any unauthorized substitutions.

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Article 12 – Quality Control Reviews, Condemnations, and Required Inspections

12.1 Contractor Quality Control.

Contractor is responsible for controlling the quality of the Work as set forth in the Contract Documents.

12.2 GLO Quality Assurance Reviews.

12.2.1 Site Visits. The GLO, the GDR and/or other GLO agents and consultants will make periodic visits to the Site(s) to familiarize themselves with the progress and quality of the Work and conduct inspections and tests to determine if the Work is proceeding in accordance with the Contract Documents. Contractor shall provide sufficient, safe and proper facilities at all reasonable times for observation and/or inspection of the Work by the authorized representatives of the GLO.

12.2.2 No Cover Up Without Notification. Contractor shall not cover up any Work with finishing materials or other building components prior to providing the GLO an opportunity to perform an inspection of the Work by the GLO, GDR, or an Inspector. If corrections of the Work are required for approval, cover up shall be delayed until another inspection can be made and approval is granted by the Inspector.

12.2.3 Requirement to Notify. Contractor shall be responsible for providing notice of forty-eight (48) hours to the GLO of the anticipated need for a cover up inspection. If the GLO fails to respond to the requested inspection within forty-eight (48) hours, Contractor may proceed with the particular cover up work identified in the notification. This notice requirement shall not be reduced or waived by the GLO's ability to respond in less time.

12.3 Condemnation and Removal of Defective Work.

12.3.1 Inspection of Work. GDR and the GLO have the authority to reject and condemn Work which does not meet the requirements of the Contract and to order such Work removed and replaced in accordance with this §12.3. The approval of a Work item by GDR and/or the GLO does not relieve Contractor from compliance with the Contract Documents where such requirements are not judged at the time of observation of the Work due to Work sequences by Contractor or the lack of time to judge the performance characteristics of the particular Work item, or where the particular Work item is part of a system that has not been fully completed and reviewed for overall operation.

12.3.2 Determination of Acceptability. GDR and/or the GLO shall interpret the Contract requirements and shall be the final judge of the acceptability of the Work under the Contract Documents. If any materials or Work furnished under this Contract are condemned or rejected by the GLO, Contractor shall, after notice from the GLO, proceed to remove materials, whether worked or un-worked, and to take down all portions of the Work condemned. Contractor shall make good all Work damaged or destroyed by the removal and replacement process.

12.3.2.1 Contractor shall, without charge or assessment against any Contract contingency or allowance, replace any material or correct any workmanship found by the GLO or GDR not to conform to the Contract requirements, unless in the public interest the GLO consents in writing to accept such material or workmanship with an appropriate adjustment in the Contract Sum. Contractor shall promptly correct all Work rejected by the GLO or GDR as defective or as failing to conform to the Contract Documents whether observed before or after the Date of Final Completion or final inspection and acceptance; and whether or not fabricated, installed, or completed. Contractor shall bear all costs of correcting such rejected Work. The costs of such corrective Work shall also include reimbursement by Contractor to the GLO of the costs incurred by the GLO for the extra services of required in performing its responsibilities relative to such corrective Work.

12.3.2.2 If Contractor does not promptly complete the Work, replace rejected material, or correct rejected workmanship, the GLO may (1) by separate contract or otherwise, replace such material or correct such workmanship and charge the cost thereof to Contractor, or (2) terminate Contractor's Contract in accordance with Article 20, Termination and Suspension of the Contract Prior to Completion.

12.3.2.3 If any portion of the Work is concealed by subsequent Work without notification to the GLO as set forth in §12.2.3, contrary to the instructions of the GLO or GDR, or to the requirements specifically expressed in the Contract Documents, it must be uncovered for observation and recovered at Contractor's expense.

12.3.2.4 If any other portion of the Work which the GLO or GDR has not specifically requested or is not specifically indicated elsewhere in the Contract Documents to observe prior to being covered, has been covered, either may request to see such Work and it shall be uncovered by Contractor. If such Work is found to be in accordance with the Contract Documents, the cost of uncovering and recovering shall, by appropriate Change Order, be charged to the GLO. If such Work is found not to be in accordance with the Contract Documents, Contractor shall pay such costs for extra services related to such non-complying Work.

12.3.3 Protest of Condemnation. Upon notice of condemnation, Contractor may request to prove to the GLO or the GDR, at Contractor's sole cost, that the Work should be accepted because it meets performance and other relevant standards. Contractor shall have ten (10) working days from receipt of the notice to present documentation to prove compliance. The GLO shall respond to Contractor's showing of proof in writing within fifteen (15) working days of receipt of Contractor's documentation.

12.4 Required Inspections – Purpose.

Inspection by the GLO and/or the GDR is for the purpose of determining the completion of the Work and does not relieve Contractor of its overall responsibility for completing the Work in a good and workmanlike fashion, in compliance with the Contract Documents. Failure of the GLO or GDR to identify Work that is not in compliance with the Contract Documents, or which is defective in operation or workmanship, or acceptance of the Work with Punch List items left incomplete, does not constitute a waiver of such a defect or of the GLO's rights under the Contract Documents or relieve Contractor of its warranties contained in Article 16.

12.4.1 Rehabilitation Progress Inspections. The GLO and/or the GDR will perform Site visits for each Rehabilitation Project at the request of Contractor at pre-determined stages during critical construction activities. These visits will occur after all required municipal code enforcements, and/or third-party inspections have taken place. Contractor will submit a written request via electronic mail for a Site visit to occur no earlier than forty-eight (48) hours from the time of request. Contractor shall have a representative on Site and shall provide documentation of passed code and/or third-party inspections performed. The GLO and/or the GDR will then observe the Work that has been performed to ensure that it is complete and accurate according to the Plans and Specifications. Unless otherwise specified by the GLO, in addition to the Final Inspection, there shall be only one (1) Progress Inspection for rehabilitation Projects, which will take place at the fifty percent (50%) level of construction completion.

12.4.2 Reconstruction and New Construction Progress Inspections. The GLO will perform Site visits for each reconstruction or new construction Project at the request of Contractor periodically during critical construction activities. Site visits will occur at the fifty percent (50%) stage of construction completion. These visits will occur after all required municipal code enforcements, and/or third-party inspections have taken place. Contractor will submit a written request via electronic mail for a Site visit to occur no earlier than forty-eight (48) hours from the time of request. Contractor shall have a representative on Site and shall provide documentation of passed code and/or third-party inspections performed. The GLO and/or the GDR will then observe the Work that has been performed to ensure that it is complete and accurate as per the Plans and Specifications.

12.4.3 Final Inspection. After construction has been completed on a Project, Contractor will request a final Site visit to guarantee that all Work has been satisfactorily completed according to the Contract Documents and appropriate state and local codes and standards, the work has been Green Building Certified, and that the Housing Unit meets minimum housing standards. The final Site visit is to confirm that all Work has been completed and been accepted by building code enforcement and/or third-party inspectors, and includes all items on the punch list, as applicable. Contractor must provide all warranties prior to the Inspector signing a Final Inspection form. In addition, Contractor must provide an executed affidavit stating that each person who performed Work or provided materials for the activity has been paid in full prior to requesting Final Payment. If there are outstanding funds owed to third parties, Contractor must list in the affidavit the amount owed, and the name, address, and phone number of the entity to whom funds are owed, and affirm when payment will occur for each entity listed.

12.4.4 Repeat Inspections. Contractor must have all Work completed and documents ready prior to requesting an inspection. If the GLO and/or the GDR observes any fault(s) during inspection, Contractor will be informed of the fault(s) and be provided a written report of findings. When Contractor has remedied the fault(s), Contractor may request a repeat inspection to be performed, no sooner than forty-eight (48) hours from the time of the request. **Contractor is responsible for all costs associated with additional inspections due to previously inspected items which are deemed outstanding or improperly completed, including costs associated with reprocessing for repeat inspections.**

Furthermore, any additional expenses caused by repeat inspections or repeat reviews, if any, shall be defined by the GLO and communicated to Contractor by memoranda, and must be satisfied by Contractor prior to receiving Final Payment hereunder.

12.4.5 Corrective Actions. If Contractor is notified that any inspection by the GLO and/or the GDR has uncovered any non-compliance issues, Contractor shall correct such issues within seven (7) calendar days. Contractor shall maintain a detailed record of every non-compliance and corrective action taken. Such non-compliance includes documentation of any and all pre-existing damages related or unrelated to the applicable disaster event, and Homeowner must Sign Off such documentation. If Homeowner refuses to Sign Off within fourteen (14) calendar days, Contractor may request an inspection of the completed Work by the GLO and/or the GDR. If the GLO and/or the GDR determines that the corrective action has been completed, the GLO may issue a Sign Off for purposes of this Section.

12.4.6 Inspection by the GLO and Others. The U.S. Department of Housing and Urban Development, the Texas General Land Office, GDR, and any of their designees shall have the right to inspect all Work performed under the Work Order. Contractor and Homeowner(s) will take all steps necessary to assure that the U.S. Government, the GLO, and GDR or any of their designees are permitted to examine and inspect the Work, the Property, and all contracts, material, equipment, payrolls, and conditions of employment pertaining to their Work, including all relevant data and records. By such inspection, the U.S. Government, the GLO, and GDR assume no responsibility to Homeowner(s) for defective material or Work under this Contract, or to either party for any breach of the Contract by the other.

12.5 Follow-up Inspections.

12.5.1 Follow-up Progress Inspections. If, on the basis of the Progress Inspection, GDR or the GLO determines that the Work is not complete, GDR or the GLO shall give Contractor written notice thereof, informing Contractor what Work was found to be incomplete, out of compliance with the Contract Documents, or defective in operation or workmanship, and setting a time by which incomplete or defective Work is to be completed. Contractor shall complete or correct all Work so designated and shall request a follow-up Progress Inspection, no sooner than forty-eight (48) hours from completion of the additional Work.

12.5.2 Follow-up Final Inspections. If, on the basis of the Final Inspection, GDR or the GLO determines that the Work is not complete according to the Contract Documents, or that the Work required by the Punch List has not been performed, GDR or the GLO shall give Contractor written notice thereof, informing Contractor what Work was found to be incomplete, out of compliance with the Contract Documents, or defective in operation or workmanship, and setting a time by which incomplete or defective Work is to be completed. Contractor shall complete or correct all Work so designated and shall request a follow-up Final Inspection, no sooner than forty-eight (48) hours from completion of the additional Work.

12.5.3 Financial Liability for Follow-up Inspections. The cost of any and all follow-up inspections deemed necessary by GDR or the GLO because the Work was not ready or completed satisfactorily for one or more required inspections shall be borne by Contractor, and payable according to §12.4.4, Repeat Inspections. The GLO reserves the right to deduct any unpaid follow-up inspection fees from Contractor's next requested payment. Work added to the Contract by Change Order after Final Inspection shall not be considered as corrective Work for purposes of determining timely completion or assessing the cost of additional inspections.

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Article 13 – Interim Contract Payments, State Funding, Recapture, Overpayment

13.1 Interim (or Periodic) Contract Payments.

13.1.1 Requesting Payment. Contractor may obtain reimbursement under a Work Order for Work properly performed on a Project by submitting a Building Contractor's Request for Payment, GLO Form 11.04, along with all required supporting documentation, as shown in §13.2.1 below. Form 11.04 will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>.

13.1.2 New Construction and Reconstruction Payment Schedule. The GLO agrees to authorize payment to Contractor in accordance with the following schedule:

- a. Payment for fifty percent (50%) of the Project Sum - with fifty percent (50%) of the Work having been completed and satisfactory Progress Inspection by the GLO, GDR or other GLO-authorized Inspector.
- b. Payment for forty percent (40%) of the Project Sum - upon completion of the Work, and satisfactory Final Inspection by the GLO, the GDR, or other GLO authorized Inspector, including all Punch List items.
- c. Payment for the final ten percent (10%) of the Project Sum, discussed in §13.1.4, Retainage, may be made upon completion of the Work, and satisfactory Final Inspection by the GLO, GDR, or other GLO-authorized Inspector, including all Punch List items. **Final Payment is discussed in more detail in Article 15.**

13.1.3 Rehabilitation Payment Schedule. The GLO agrees to authorize payment to Contractor in accordance with the following schedule:

- d. Payment for fifty percent (50%) of the Project Sum - with fifty percent (50%) of the Work having been completed and satisfactory Progress Inspection by the GLO, the GDR, or other GLO-authorized Inspector.
- e. Payment for forty percent (40%) of the Project Sum - upon completion of the Work, and satisfactory Final Inspection by the GLO, the GDR, or other GLO-authorized Inspector, including all Punch List items.
- f. Payment for the final ten percent (10%) of the Project Sum, discussed in §13.1.4, Retainage, may be made upon completion of the Work, and satisfactory Final Inspection by the GLO, the GDR, or other GLO-authorized Inspector, including all Punch List items. **Final Payment is discussed in more detail in Article 15.**

13.1.4 Retainage. The GLO shall withhold as retainage ten percent (10%) of the Project Sum. Upon satisfaction of all aspects of the Project requirements, Contractor may seek reimbursement of any amounts retained, and any other amounts that may be recoverable under the terms of the Contract. Contractor's request for payment of amounts retained must include, as a minimum, the following documentation:

- a. Building Contractor's Request for Payment (GLO Form 11.04), signed by Contractor and Homeowner;
- b. Contractor's invoice with itemization of costs;
- c. Signed and notarized Lien Waiver Affidavit (GLO Form 11.24) and Exhibit A;
- d. Final Inspection Checklist (GLO Form 11.03), complete with appropriate signatures in Sections I, II and III;
- e. Insurance Declaration Page(s) covering the subject property, if applicable; and
- f. TREC inspection report.

The supporting documentation and additional documents in this section are required with all retainage-related Contractor requests for payment. All referenced numbered forms will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>. Required documentation may change from time to time; **it is the sole responsibility of Contractor to be aware of and obtain information related to any additional requirements for supporting documentation.**

13.2 Documentation Required – Progress Payments.

Progress Payments will be made to Contractor for Work performed and materials in place or suitably stored and protected on Sites, or as otherwise agreed to by the GLO and Contractor, in accordance with CDBG-DR Program rules as defined by the GLO, and according to the schedule in §13.2.1, below.

13.2.1 Documentation. A Progress Payment shall not become due until receipt by GDR or designee of a correct and complete Building Contractor's Request for Payment, certified by the GDR pursuant to this Article, and the additional documentation listed in §13.2.1, **a** through **d**, below. If errors or omissions are found during the review of the Contractor's request for payment documentation, no payment will be issued until those errors or omissions are rectified. Progress payments are made provisionally and do not constitute acceptance of Work not in accordance with the Contract Documents, in the sole discretion of the GLO. **Progress payments for Change Order Work will not be accepted for payment until the related Change Order is executed by the GLO.**

- a.** Building Contractor's Request for Payment (GLO Form 11.04), executed by Contractor, Homeowner, and Inspector;
- b.** Contractor's invoice with itemization of costs;
- c.** Signed and notarized Lien Waiver Affidavit (GLO Form 11.25) and Exhibit A; and
- d.** Progress Inspection Checklist - (GLO Form 11.10), with appropriate signatures in Sections I, II and III.

The supporting documentation and additional documents in this section are required with all Contractor requests for payment of Progress Payments. All referenced numbered forms will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>. Required documentation may change from time to time; **it is the sole responsibility of Contractor to be aware of and obtain information related to any additional requirements for supporting documentation.**

13.2.2 Satisfactory Progress Required. When Satisfactory Progress has not been made by Contractor during any period for which a Progress Payment is due to be made, a percentage of the Progress Payment may be withheld. Determinations to withhold and the specific amount to be withheld shall be made in the sole discretion of the GLO, on a case-by-case basis. Such decisions will be based on the GLO's assessment of past performance and the likelihood that such performance will continue. Upon satisfactory completion of the required Improvements, amounts withheld may be paid along with the next Progress Payment or with the Final Payment, in the sole discretion of the GLO.

13.2.3 The GLO's Duty to Pay. The GLO shall have no duty to pay Contractor except upon receipt of a completed Building Contractor's Request for Payment, GLO Form 11.04, which has been certified by the GDR and approved by the GLO, pursuant to CDBG-DR Program rules and requirements and the Supplemental General Conditions.

13.3 Withholding Payment to Contractor.

The GLO shall be entitled to withhold payment to Contractor while any of the following conditions exist:

- a.** the location, installation, or construction of a required Improvement violates or interferes with any applicable recorded instrument or governmental regulation affecting the Property;
- b.** Contractor makes a material misrepresentation in any request for payment documentation;
- c.** notice of a claim or lien on the Property has been received in connection with the construction, repair, or installation of the required Improvement, and has not been caused to be removed by Contractor.

13.4 Payment for Incomplete Work.

If Contractor is terminated or voluntarily ceases Work before completion of a Housing Unit, payment will be made for Work completed in a satisfactory manner, solely at the discretion of the GLO and without recourse by Contractor. Contractor shall provide all documentation requested by the GLO and/or GDR within twenty-four (24) hours of receipt of the request. GDR will submit to the GLO an assessment and valuation of Work completed. The GLO will make payment to Contractor based solely upon the assessment and valuation of Work completed, as submitted by GDR.

13.5 Failure to Complete Work Within the Time Allotted – Liquidated Damages.

Time is of the essence of this Contract. Contractor's failure to complete the Work within one hundred twenty (120) days or to achieve final completion as required will cause damage to the GLO. These damages shall be liquidated by agreement of Contractor and the GLO, at the rate of one hundred dollars (\$100.00) per day, per house.

13.6 Reduction to Cover Loss.

In addition to Retainage discussed in §13.1.4, the GLO may reduce any invoice prior to payment to the extent necessary to protect the GLO from loss on account of actions of Contractor, including, but not limited to:

- a. Defective Work not remedied;
- b. Damage to Work of a separate contractor;
- c. Failure to maintain scheduled progress or reasonable evidence that the Work will not be completed within the Contract Time;
- d. Failure to comply with the requirements of Texas Government Code Chapter 2258 (Prevailing Wage Law); or
- e. Persistent failure to carry out the Work in accordance with the Contract Documents;
- f. Reasonable evidence that the Work cannot be completed for the remainder of the Project Sum;
- g. Assessment of fines for violations of Prevailing Wage Rate laws;
- h. Failure to exclude the appropriate amount of Retainage when requesting a periodic payment; or
- i. Failure to pay for the retesting of materials that failed their initial tests, in accordance with Specifications requirements.

13.7 Title and Liability.

Title to all material and Work covered by Progress Payments transfers to Homeowner upon payment. Transfer of title to Homeowner does not relieve Contractor of the sole responsibility for the care and protection of materials and Work upon which payments have been made, or the restoration of any damaged Work, and does not waive the right of the GLO to require the fulfillment of all the terms of the Contract.

13.8 Progress Payments and Liability.

Progress Payments to Contractor shall not release Contractor or his surety from any obligations under this Contract.

13.9 Subcontractors.

Upon the GLO's request, manifest proof of the status of Subcontractors' accounts shall be furnished in a form acceptable to the GLO.

13.10 Payment Verification.

Contractor, in requesting payment for materials, shall provide copies of bills of lading, invoices, delivery receipts, or other evidence of the location and value of such materials.

13.11 Effective Approval Date.

For purposes of Texas Government Code §2251.021 (a)(2), the date the performance of service is completed for a Project is the date GDR approves the Building Contractor's Request for Payment for disbursement of the Final Payment on the Project.

13.12 State Funding.

- a. This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or the GLO in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VIII, Section 6 of the Texas Constitution, it is understood that all obligations of the GLO hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, this Contract may be terminated. In that event, the parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests, accrued up to the date of termination.
- b. Furthermore, any claim by Contractor for damages under this Contract may not exceed the amount of funds appropriated for payment, but not yet paid to Contractor under the Work Order at the time of the breach. **Nothing in this provision shall be construed as a waiver of sovereign immunity.**

13.13 Recapture of Funds.

Contractor shall conduct the Project(s) in a satisfactory manner, as determined by the GLO, as set forth in the Contract Documents. The discretionary right of the GLO to terminate for convenience under Article 20 notwithstanding, it is expressly understood and agreed by Contractor that the GLO shall have the right to terminate the Contract and to recapture, and be reimbursed for any payments made by the GLO (i) that exceed the maximum allowable rate according to the applicable federal funding agency; (ii) that are not allowed under applicable laws, rules, and regulations; or (iii) that are otherwise inconsistent with this Contract, including any unapproved expenditures.

13.14 Overpayment.

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

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Article 14 – Change Orders

14.1 Change Orders Defined.

A “Change Order” means a document executed by the GLO or the GDR (and the Contractor, if required), authorizing revisions to a Project.

14.2 Effect of Change Order.

A Change Order authorizes a change in the scope of the Work or an adjustment in the Project Sum, Contract Sum, or Contract Time. Work performed under a Change Order is subject to all provisions of the Contract Documents.

14.3 Modifications for Which a Change Order is Required.

All changes in the scope of the Work, the Project Sum, Contract Sum, the Contract Time shall be documented by a Change Order. Change Orders are the exclusive method for modifying the Project Sum, Contract Sum, or Contract Time. Neither the GLO nor GDR or any other party may change the scope of the Work, the Project Sum, Contract Sum, or the Contract Time by any method, expressed or implied, other than a Change Order.

14.4 Notice.

No direction, instruction, interpretation, or determination from GDR or the GLO shall be considered for a Change Order under this clause unless Contractor gives the GLO written notice within fifteen (15) days requesting a Change Order and stating the date, circumstances, and source of the directive.

14.5 Agreed and Unilateral Change Orders.

A Change Order may be either an Agreed Change Order or a Unilateral Change Order.

14.5.1 Agreed Change Orders. An Agreed Change Order is a Change Order jointly executed by the GLO, or GDR, and Contractor, in which each agrees to all of the terms of the amendment.

14.5.2 Effect of An Agreed Change Order. The execution of an Agreed Change Order by the GLO, or GDR, and Contractor constitutes the full, final, and complete settlement of all claims with regard to the modifications contained in the Change Order; provided, however, that an Agreed Change Order may be reformed by a written modification signed by Contractor and the GLO, or GDR., for the limited purpose of correcting an error in computation.

14.5.3 Unilateral Change Order (ULCO). A Unilateral Change Order is a Change Order issued by the GLO or GDR and does not require agreement of Contractor.

14.5.4. Effect of a Unilateral Change Order; conversion to an Agreed Change Order. The issuance of a Unilateral Change Order does not preclude any of Contractor’s rights to relief otherwise available under the Contract Documents. Contractor may preserve such rights by submitting to the GLO and GDR a written objection to the Unilateral Change Order setting forth in detail the reasons for its objections and the Contract provisions on which the objections are based, within thirty (30) days of receipt of the Unilateral Change Order. If Contractor does not submit a written objection within the allotted time, Contractor shall be deemed to have accepted the terms of the Unilateral Change Order and waives all claims related to the thereto, and the Unilateral Change Order shall have the full force and effect of any Agreed Change Order.

14.6 Change Orders for Unforeseen Dangerous Condition.

If additional Work is necessary to make repairs or to correct unforeseen dangerous conditions, Contractor shall submit a Change Order Request describing the type of Work needed, the cost of the Work, and the time necessary for the Work to be completed. Unless it is determined there exists an immediate health and safety danger, **NO WORK SHALL BE AUTHORIZED UNTIL APPROVED IN WRITING BY GDR OR THE GLO.** Change Orders will be reviewed for cost reasonableness by GDR and/or the GLO. Failure to complete a Change Order Request Form and provide proper

documentation to justify the request shall result in the rejection of the request. Change Order Request Forms will be available on the GLO's website at <http://recovery.texas.gov/resources/housing/index.html>.

14.7 Invoices and Quotes.

Contractor shall submit detailed itemized lists of labor, material, and equipment costs for Contractor's Work, including quantities and unit costs for each item of labor, material, and equipment.

14.8 Itemized List.

An itemized list of labor, material and equipment costs for each Subcontractor's and/or sub-subcontractor's Work including quantities and unit costs for each item of labor, material, and equipment.

14.9 Fixtures and Equipment.

Where the additional Work involves fixtures, equipment, or as detailed in the Construction Documents, Contractor must provide to the GLO for review and approval of the Change Order Request all product data sheets, as well as the manufacturer's data and warranty.

14.10 Who May Request Change Orders.

Change Order Requests may be initiated by the GLO, GDR, or Contractor as provided in §14.5.

14.11 Change Order Types, Processes, and Pricing.

The GLO or GDR shall provide Contractor with any additional information required by Contractor as to the types of Change Orders, the Change Order processes to be followed, and the method of computing pricing for various types of Change Orders, as determined pursuant to the CDBG-DR Program and this Contract.

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Article 15 – Contract Final Acceptance and Payment

15.1 Request for Final Payment.

At any time following the completion of Work on an individual Project, including Punch List items, cleanup, and the delivery of all documents and other Project Close-out Documents as required by the Contract Documents, Contractor shall submit to GDR, for their review and approval, a request for Final Payment, which shall exclude ten percent (10%) of the payment requested to cover Retainage.

15.2 Final Payment Documentation.

Contractor shall submit, prior to the request for Final Payment, final copies of all Close-out Documents, including maintenance and operating instructions, guarantees and warranties, certificates, documents, and all other items required by the Contract Documents. Contractor shall also submit a consent of surety to Final Payment, an affidavit that all payrolls, bills for materials and equipment, subcontracted Work, and other indebtedness connected with the Work, except as specifically noted, have been paid or will be paid or otherwise satisfied within the period of time required by Chapter 2251, Texas Government Code. Contractor shall furnish an affidavit, along with supporting documentation such as receipts, releases, and waivers or releases of claims, certifying that payment or satisfaction of all such obligations arising out of the Contract have been properly fulfilled. The GLO is entitled to rely upon this affidavit; and Contractor may not submit a claim on behalf of a subcontractor or vendor if that claim has not been noted as an exception in the affidavit.

15.2.1 Items Contractor must submit to accomplish Final Closeout include, but are not limited to, the following:

- a. Contractor Request for Payment (Form 11.04), signed by Contractor, Homeowner, and Inspector;
- b. itemization of costs;
- c. signed and notarized Lien Waiver Affidavit (Form 11.24); with Exhibit A;
- d. signed and notarized Final Bills Paid Affidavit by Contractor (Form 11.08);
- e. a completely executed Final Inspection (Form 11.03), signed and dated (this date initiates the thirty [30] day period for Retainage requirements);
- f. Contract and Subcontract Activity Report (HUD Form 2516);
- g. Green standard certificate;
- h. a completed, signed copy of the RES check energy compliance report when applicable; and
- i. insurance binder(s) covering the subject property, if applicable.

The supporting documentation and additional documents in this section are required with all Final Payment Contractor requests for payment. All forms will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>. Required documentation may change from time to time; **it is the sole responsibility of Contractor to be aware of and obtain information related to any additional requirements for supporting documentation.**

15.3 GDR Approval.

GDR shall review the request for Final Payment promptly but in no event later than ten (10) days after its receipt. Prior to the expiration of this deadline, GDR shall either: (1) return the request for Final Payment to Contractor with corrections and instruction for resubmission; or (2) approve it and submit it to the GLO.

15.4 Offsets and Deductions.

The GLO may deduct from the Final Payment all sums due from Contractor for any reason, and all appropriate deductions authorized under Article 13. If GDR and/or the GLO notes any Work remaining incomplete or defects not remedied, the GLO may deduct the reasonable cost of remedying such deficiencies from the Final Payment and/or Retainage Payment. If such deductions are made, the GLO shall identify each deduction made and the reason therefore and furnish Contractor with an explanation of the deduction and the amount deducted.

15.5 Final Payment Due.

All payments made by the GLO shall be in accordance with Chapter 2251 of the Texas Government Code, the Prompt Payment Act. Thus, Final Payment shall become due and payable by the GLO, subject to all allowable offsets and deductions, on the thirty-first (31st) day next following the GLO's approval of the Contractor Request for Payment. If Contractor disputes any amount deducted by the GLO, Contractor shall give notice of the dispute on or before the thirtieth (30th) day next following receipt of Final Payment; failure to do so within the allotted time will bar any subsequent claim for payment of amounts deducted.

15.6 Effect of Final Payment.

Final Payment shall constitute a waiver of all claims by the GLO relating to the condition of the Work except those arising from (1) faulty or defective Work appearing after Final Completion (latent defects); (2) failure of the Work to comply with the requirements of the Contract Documents; (3) terms of any warranties required by the Contract Documents or implied by law, and (4) claims arising from personal injury or property damage to third parties. Final Payment shall constitute a waiver of all claims by Contractor except those specifically identified in writing and submitted to GDR prior to the application for Final Payment. Provided, however, that the Contract shall not be deemed fully performed by Contractor and closed until the expiration of all warranty periods.

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Article 16 – Contract Warranty and Guarantee

16.1 Contractor's General Warranty and Guarantee.

Contractor warrants to the GLO that all Work shall be executed in accordance with the Contract Documents, complete in all parts, in accordance with approved practices and customs, and of the best finish and workmanship. Unless otherwise specified, all materials and equipment incorporated in the Work under the Contract shall be new. The GLO may, at its option, agree in writing to waive any failure of the Work to conform to the Contract Documents, and to accept a reduction in the Contract Sum for the cost of repair or diminution in value of the Work by reason of such defect. Absent such a written agreement, however, Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute and is not waived by any inspection or observation by the GLO, GDR or others, by making any Progress Payment or Final Payment, except as provided in §15.6, by the use or occupancy of the Work or any portion thereof by the GLO, at any time, or by any repair or correction of such defect made by the GLO.

16.2 Warranty Period.

Except as otherwise specified, Contractor shall repair all defects in materials, equipment, or workmanship appearing within one (1) year from the date of Final Completion and acceptance of the Work. Upon receipt of written notice from the GLO or the facility user of the discovery of any defects, Contractor shall promptly and at its own cost remedy the defects and replace any property damaged thereby and shall promptly provide written notice to the GLO and, to the extent applicable, Homeowner, indicating action taken to resolve the defect. In case of emergency where delay would cause serious risk of loss or damage to the GLO, or if Contractor, after notice, fails to proceed promptly and remedy within thirty (30) days or within another period of time which has been agreed to in writing, in compliance with the terms of the warranty and guarantee, the GLO may have the defects corrected and Contractor and his surety shall be liable for all expenses incurred.

16.3 Contractor Warranty.

16.3.1 Contractor will provide a set of limited warranties and building and performance standards which include:

- a. a one (1) year workmanship and materials warranty;
- b. a two (2) year electrical, mechanical, and delivery system warranty; and
- c. a ten (10) year structural warranty.

16.3.2 Furthermore, Contractor shall furnish Homeowner with all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under the Contract. Any defects that appear within twelve (12) months from final acceptance of the Work, and that arise from defective or improper materials or workmanship shall, upon notification by the GLO, be corrected or made good by Contractor at Contractor's expense within ten (10) working days after receipt of notice.

16.3.3 Contractors will also provide, according to "Warranty Standards:"

- a. the standards of construction established under the Housing Quality Standards that have been approved by HUD for any items for which standards are not published; and,
- b. except where preempted by the above expressed standards, all applied warranties.

16.4 Separate Warranties.

Where a particular piece of equipment or component of the Work for which a separate warranty is required under the Contract Documents is placed in continuous service before Final Completion, the date of service commencement shall be certified by GDR and/or the GLO and the Warranty Period for that equipment or component shall run from the date so certified. In addition to Contractor's warranty and duty to repair, as set forth in §§16.1 and 16.2, Contractor expressly assumes all warranty obligations required under the Contract Documents for specific building components, systems, and equipment. Contractor may satisfy any such obligation by obtaining and assigning to the GLO a complying warranty from a manufacturer, supplier, or subcontractor. Where an assigned warranty which does not fully comply with the requirements of the Contract Documents is tendered by Contractor and accepted by the GLO, Contractor shall remain liable to the GLO on all elements of the required warranty that are not provided by the assigned warranty.

16.5 Certification of No Asbestos Containing Materials or Work.

16.5.1 Lead and Asbestos. Contractor shall provide a certification statement, included with each materials submittal, stating that no lead or asbestos containing materials or Work is included within the scope of the proposed submittal.

16.5.1.1 Contractor is responsible for performing investigations of the presence of lead and/or asbestos-containing materials, and any required lead and/or asbestos abatement. Contractor shall provide the GLO with a copy of a signed waste manifest from a proper disposal institution in connection with the disposal of all lead and/or asbestos or materials containing lead and/or asbestos.

16.5.2 Certification of Others. Contractor shall provide at the time of Final Inspection, a notarized certification to the GLO that no lead and/or asbestos containing building materials ("ACBM") or Work were provided, installed, furnished, or added to the Project.

16.5.3 Compliance Required. Contractor shall take whatever measures he deems necessary to ensure that all employees, suppliers, fabricators, materialmen, subcontractors, or their assigns, comply with this requirement.

16.5.4 Requirements of Code. Contractor shall ensure compliance with the Texas Asbestos Health Protection Act (TAHPA – 25 TAC 195) by all subcontractors and assigns as listed in item §16.5.3 above. All materials used under this Contract shall be certified as non ACBM.

16.5.4.1 Every subcontractor shall provide to Contractor a notarized statement that no ABCM has been used, provided, or left on the premises of the Project, and Contractor shall maintain such statements until notified by the GLO that the period for retention of records related to the Project, as stated in §22.16, has passed and destruction of records is appropriate.

16.5.4.2 Contractor shall provide data sheets and/or labels as proof of compliance, to the extent deemed necessary by the GLO for full and complete compliance.

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Article 17 – Good Faith Effort Subcontracting Program (HUBs)

17.1 General Description.

State agencies are required by statute to make a good faith effort to assist Historically Underutilized Businesses (HUBs) in participating in contract awards issued by the State. The Texas Comptroller of Public Accounts (Comptroller) rules, 34 TAC 20.281-20.298, outline the State's policy to encourage outreach to and potential utilization of HUBs in State contracting opportunities through race, ethnic, and gender-neutral means. The goal of this program is to promote full and equal business opportunity for all businesses in State contracting in accordance with the goals specified in the State of Texas Disparity Study. A Contractor who contracts with the State in an amount in excess of one hundred thousand dollars (\$100,000.00) shall be required to make a good faith effort to award subcontracts to HUBs in accordance with 34 Tex. Admin. Code § 20.285 by submitting a HUB Subcontracting Plan at the time of bidding, and by complying with the Subcontracting Plan after it is accepted by the GLO, and for the duration of the Contract.

17.2 Compliance with Approved HUB Subcontracting Plan.

Contractor, having been awarded this Contract in part by complying with the HUB Program statute and rules, hereby covenants to continue to comply with the HUB Program as follows:

Contractor shall:

- a. Prior to substituting a Subcontractor, promptly notify the GLO in the event a change is required for any reason to the accepted HUB Subcontracting Plan;
- b. Conduct the good faith effort activities required and provide the GLO with necessary documentation to justify approval of a change to the approved HUB Subcontracting Plan;
- c. Cooperate in the execution of a Change Order or such other approval of the change in the HUB Subcontracting Plans as Contractor and the GLO may agree to;
- d. Maintain and make available to the GLO upon request business records documenting compliance with the accepted HUB Subcontracting Plan;
- e. Upon receipt of payment for performance of Work, Contractor shall submit to the GLO a compliance report, in the format required by the GLO, that demonstrates Contractor's performance of the HUB Subcontracting Plan;
- f. Promptly and accurately explain and provide supplemental information to the GLO to assist in the GLO's investigation of Contractor's good faith effort to fulfill the HUB Subcontracting Plan and the requirements under HUB Rule 20.14.

17.3 Failure to demonstrate Good Faith Effort.

Upon a determination by the GLO that Contractor has failed to demonstrate a good faith effort to fulfill the Subcontracting Plan or any Contract covenant detailed above, the GLO may, in addition to all other remedies available to it, report the failure to perform to the Comptroller of Public Accounts/Texas Procurement and Support Services Division Vendor Performance and Debarment Program.

17.4 Additional HUB Requirements.

Additional requirements related to HUB Subcontracting were detailed in the RFP, incorporated herein by reference for all purposes.

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Article 18 – Concealed Site Conditions

18.1 Generally.

Contractor is responsible for having visited the Site(s) and having ascertained pertinent local conditions such as location, accessibility, and general character of the Site(s) or building(s), the character and extent of existing Work within and adjacent to the Site(s), and any other Work being performed thereon. Failure to do so will not relieve Contractor from the responsibility for successfully performing the Work at no additional expense to the GLO.

18.2 Subsurface, Latent, or Concealed Conditions.

If, during Contractor's performance of the Contract, any subsurface, latent, or concealed conditions at the Site(s) are found to be materially different from the information included in the bid documents, or if unknown conditions of an unusual nature are discovered differing materially from the conditions usually inherent in Work of the character specified, Contractor shall notify the GLO in writing of such conditions before proceeding with the Work. If necessary, the GLO shall develop a solution and provide it to Contractor. If the solution prompts changes to the Contract Amount and/or Time, the Contract shall be adjusted under Article 14 hereof, Change Orders.

18.3 Environmental Conditions.

For environmental matters, see §2.7 and §9.4.

18.4 Disclaimer.

The GLO makes no representations as to the accuracy or completeness of the Site information furnished to Contractor by the GLO and does not expressly or implicitly warrant such and is not responsible for any interpretations or conclusions reached by Contractor with respect thereto. It is Contractor's sole responsibility to verify to its own satisfaction all Site information including, but not restricted to, topographical data, borings, subsurface information, and utilities and easements, and to account for all reasonably anticipated costs in its proposal for construction.

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Article 19 – Modification of the Contract Time

19.1 No Damages for Delay.

Contractor shall have no claim for monetary compensation or damages for delay or hindrances to the Work from any cause including, without limitation, any act or omission of the GLO.

19.1.2 Suspension of Work for Cause. The GLO may, at any time without prior notice, suspend all or any part of the Work if, in the GLO's sole discretion, it is considered reasonably necessary to do so to prevent or correct any condition of the Work which constitutes an immediate safety hazard, or which may reasonably be expected to impair the integrity, usefulness, or longevity of the Work when completed. The GLO shall give Contractor a written notice of suspension for cause, setting forth the reason for the suspension and identifying the Work to be suspended. Upon receipt after such notice, Contractor shall immediately stop the Work so identified. As soon as practicable following the issuance of such notice, the GLO shall initiate and complete an investigation of the circumstances giving rise to the suspension and shall issue a written determination of their cause. Contractor will not be entitled to an extension of time or compensation for delay resulting from a suspension if the GLO's investigation determines that the cause was within the control of Contractor. If the cause is determined not to have been within the control of Contractor, and the suspension prevents Contractor from completing the Work within the Contract Time, the suspension is an excusable delay and an extension of the 120-day completion requirement shall be granted through a Change Order. Suspensions of Work under this provision shall be no longer than is reasonably necessary to identify and remedy the conditions giving rise to the suspension.

19.1.3 Suspension of Work for the GLO's Convenience. Upon seven (7) days' prior written notice to Contractor, the GLO may at any time, without breach of the Contract, suspend all or any portion of the Work for a period of up to thirty (30) days for its own convenience. The GLO shall give Contractor a written notice of suspension for convenience, which shall set forth the number of days for which the Work, or any portion of it, will be suspended, and the date on which the suspension of Work shall cease. When such a suspension prevents Contractor from completing the Work within the Contract Time, it is an excusable delay. A notice of suspension for convenience may be modified by the GLO at any time upon seven (7) days' prior written notice to Contractor. If the GLO suspends the Work for its convenience for more than sixty (60) consecutive days, Contractor may elect to terminate the Contract pursuant to the provisions of Article 20.

19.1.4 Concurrent Delay. When the completion of the Work is simultaneously delayed by an excusable delay and a delay arising from a cause not designated as excusable under the Contract Documents, Contractor shall be entitled only to a time extension, and not to compensation, for the period of concurrent delay. When the completion of the Work is simultaneously delayed by an excusable delay and an excusable noncompensable delay, Contractor shall be entitled to a time extension only, as provided under §19.1.3.

19.1.5 No Extension. Except as expressly provided in this Article 19, Contractor shall not be entitled to an extension of the Contract Time for any Project and shall bear all responsibility for financial risks which may accrue from various causes of delay in the construction progress.

19.2 Time Extension Requests.

If Contractor believes that the completion of the Work has been delayed by a circumstance designated as excusable under §19.1.3, other than inclement weather, Contractor shall submit to the GLO a written notice, stating the nature of the delay and the activities potentially affected, within thirty (30) days after the onset of the event or circumstance giving rise to the excusable delay. Such claims should be accompanied by sufficient written evidence to document the delay. In the case of a continuing cause of delay, only one claim is necessary. Claims for extensions of time shall be stated in numbers of whole or half calendar days. All requests for extensions of time not submitted in connection with proposed costs for changed or added Work must be made in writing within thirty (30) days after the cessation of the delay. Contractor and the GLO recognize and agree that it is beneficial to each to identify delays and make necessary schedule adjustments promptly, and that a Project schedule prepared and updated by Contractor provides an effective tool for measuring and tracking the impact of delays. Therefore, it is agreed that no extension of time will be granted unless the required notice is submitted Timely, the required Project schedule has been regularly updated and submitted as specified, and the notice includes sufficient documentation

acceptable to the GLO. All Changes to the Contract Time made as a result of such claims shall be by Change Order, as provided under Article 14.

19.2.1 No Release. No extension of time shall release Contractor or the Surety from continuing a performance or payment bond for any obligations under the Contract or such a bond. Those obligations shall remain in full force until the discharge of the Contract.

19.2.2 Contents of Time Extension Requests. Each Time Extension Request shall be accompanied by a quantitative demonstration of the impact of the delay on the current Project schedule. Time Extension Requests shall include a reasonably detailed narrative setting forth (1) the nature of the delay and its cause, (2) the basis of Contractor's claim of entitlement to a time extension, (3) documentation of the actual impacts of the claimed delay on the Project Schedule, and any concurrent delays, (4) description and documentation of steps taken by Contractor to mitigate the effect of the claimed delay including, when appropriate, the modification of the Project Schedule, and (5) such other information that Contractor and/or the GLO considers necessary to justify the claim for an extension of time. No time extensions shall be granted for delays that do not affect the Project schedule.

19.2.3 The GLO's Response. The GLO shall respond to the Time Extension Request by providing to Contractor written notice of the number of days extension granted, if any, and giving its reason if this number differs from the number of days requested by Contractor. Such an extension of Time is effective on the date the GLO's notice is received by Contractor, but a Change Order reflecting the Extension of Time shall be executed by the parties in accordance with Article 14, Change Orders. The GLO will respond to each properly submitted Time Extension Request within fifteen (15) days following its submittal; if the GLO cannot reasonably make a determination about Contractor's entitlement to a time extension within that time, the GLO shall so notify Contractor in writing. Upon written agreement with Contractor, the GLO shall then have not more than thirty (30) additional days to prepare a final response.

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Article 20 – Termination and Suspension of the Contract Prior to Completion

20.1 Termination by the GLO for Cause.

The GLO may, without prejudice to any right or remedy, terminate Contractor's Contract and take possession of the Work Site(s) and of all materials, equipment, tools, construction equipment, and machinery thereon owned by Contractor, under the following circumstances:

- a. Persistent or repeated failure or refusal to supply enough properly skilled workmen or proper materials, except during complete or partial suspensions of Work authorized under the Contract Documents;
- b. Persistent disregard by Contractor of laws, ordinances, rules, regulations, or orders of the GLO or any public authority having jurisdiction;
- c. Persistent failure to prosecute the Work in accordance with the Contract Documents, and to ensure its completion within the time, or any extension thereof, specified in the Work Order;
- d. Failure to remedy defective Work condemned by GDR pursuant to Article 12;
- e. Failure to pay Subcontractors, laborers, materialmen, and suppliers pursuant to Texas Government Code Chapter 2251;
- f. Persistent endangerment by Contractor or its Subcontractors or other vendors, of the safety of labor, safety of third parties, or of the Work itself;
- g. Failure to supply or maintain statutory bonds, pursuant to Article 5, or to supply or maintain required insurance, pursuant to Article 6;
- h. Any other material breach of the Contract; or
- i. Contractor becomes insolvent, files for bankruptcy protection, makes a general assignment of its rights and obligations for the benefit of creditors or is, in the GLO's sole determination, otherwise financially incapable of performing the Work.

The GLO reserves the right to terminate Work authorized at any time for any of the above listed causes. Failure to exercise the right to terminate in any instance or for any proper reason shall not be construed as waiver of the right to do so in any other instance or for any other reason.

20.1.1 Notification and Reinstatement. Except for reasons stated in §20.1(f) above, safety of persons or the Work, GDR shall give Contractor and its surety thirty (30) days' prior written notice of its intent to terminate for any of the above reasons. If Contractor or the surety demonstrates to the satisfaction of the GLO that the condition or conditions upon which the notice of termination is based have been removed, corrected, or will not recur, the GLO in its sole discretion may rescind the notice, and the Contract shall continue unmodified, and Contractor shall not be entitled an extension of time.

20.1.2 Third-Party Completion. If Contractor or the surety fails to so demonstrate within thirty (30) days following receipt of such notice or fails to satisfy the GLO that the condition or conditions upon which the notice of termination is based have been removed, corrected, or will not recur, the GLO may arrange for completion of the Work by another party. The GLO shall deduct the cost thereof from the unpaid Contract Sum remaining, including the GLO contract administrative costs made necessary by such default or neglect, in which event no further payment shall be made by the GLO until all costs of completing the Work have been deducted. If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for the GLO's additional services made necessary thereby, such excess shall be paid to Contractor. If such costs exceed the unpaid balance, Contractor or his surety shall pay the difference to the GLO. This obligation for payment shall survive the termination of the Contract. The GLO reserves the right, where the Contract is terminated for cause, to take assignment of any and all contracts between Contractor and its Subcontractors, vendors, and suppliers, and GDR shall promptly notify Contractor of the contracts the GLO elects to assume. Upon receipt of such notice, Contractor shall promptly take all steps necessary to effect such assignment. **Contractor assumes full responsibility for severance and satisfaction of all subcontracts not assumed by the GLO.**

20.2 Termination for Convenience of the GLO.

The GLO reserves the right, without breach, to terminate the Contract prior to, or during the performance of the Work, for any reason. Upon such occurrence, the following procedures will be initiated:

- (1) The GLO will immediately notify Contractor in writing, specifying the reason for, and the effective date of, Contract termination. Such notice shall also contain any instructions necessary for the protection, storage, or decommissioning of incomplete Work or systems, and for safety.
- (2) **After receipt of a notice of termination, Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at that point under the Contract or Work Order:**
 - a. Stop all Work; and
 - b. Place no further subcontracts or orders for materials or services; and
 - c. Terminate all subcontracts not assumed by the GLO; and
 - d. Cancel all material and equipment orders, as applicable; and
 - e. Take all action necessary to protect and preserve all property in possession of Contractor related to this Contract.
- (3) When the Contract is terminated for the GLO's convenience, Contractor may recover from the GLO payment for all Work satisfactorily executed and accepted by GDR and the GLO, including any additional Work required pursuant to the notice of termination, and for any provable loss and reasonable expenses attributable to the Work and resulting directly from the termination.

20.3 Termination by Contractor.

If the Work is stopped for a period of ninety (90) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, and through no act or fault of Contractor or a Subcontractor or their agents or employees or any other persons performing any of the Work under a subcontract with Contractor, Contractor may, upon thirty (30) additional days' written notice to GDR, terminate the Contract and recover reasonable expenses attributable to the Work resulting from such termination. **If the cause of the Work stoppage is removed prior to the end of the thirty (30) day notice period, Contractor may not terminate the Contract.**

20.4 Settlement Upon Termination.

When the Contract is terminated for any reason, Contractor shall, at any time prior to the close of business within one hundred eighty (180) days after the effective date of termination, submit a final termination settlement proposal to the GLO, based upon recoverable costs as provided under §§20.1, 20.2 or 20.3. If Contractor fails to submit the proposal within the time allowed, the GLO may determine the amount due to Contractor and shall pay the determined amount. Contractor waives claims against the GLO for consequential damages arising out of, or relating to, this Contract. This waiver includes damages incurred by Contractor for principal office expenses, including the compensation of personnel stationed there, for losses of financing, business, and reputation, and for loss of profit except anticipated profit arising directly from Work already performed and accepted by GDR and the GLO.

20.5 Force Majeure.

Except with respect to the obligation of payments under this Contract, if either of the parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; labor strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected party (collectively referred to as a "Force Majeure") then, while so prevented, the affected party's obligation to comply with such covenant shall be suspended, and the affected party shall not be liable for damages for failure to comply with such covenant. In any such event, the party claiming Force Majeure shall promptly notify the other party of the Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and shall resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, the GLO may terminate this Contract immediately upon written notification to Contractor.

Article 21 – Dispute Resolution

21.1 Generally.

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code, as further described herein, shall be used, by the GLO and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the procedures described in §21.4 below, and the following shall be observed by the parties

- a. **Initiation of Process.** A Contractor's claim for breach of this Contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, Subchapter B, of the Texas Government Code. To initiate the process, Contractor shall submit written notice, as required by Subchapter B, to GDR. Said notice shall specifically state that the provisions of Chapter 2260, Subchapter B are being invoked. A copy of the notice shall also be given to all other representatives of the GLO and Contractor otherwise entitled to notice under the Contract. Compliance by Contractor with Subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Texas Government Code.
- b. **Sole Process for Remedy.** The contested case process provided in Chapter 2260, Subchapter C, of the Government Code is Contractor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by the GLO if the parties are unable to resolve their disputes under the negotiation process in §21.1(a) above.
- c. **No Waiver of Sovereign Immunity.** Compliance with the contested case process provided in Subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practices and Remedies Code. Neither the execution of the Contract by the GLO nor any other conduct of any representative of the GLO relating to the Contract shall be considered a waiver of sovereign immunity to suit.

21.2 Procedure.

The submission, processing, and resolution of Contractor's claim is governed by the published rules adopted by the GLO pursuant to Chapter 2260, as currently effective, hereafter enacted, or subsequently amended.

21.3 Continuing Performance

Neither the occurrence of an event nor any pending claim constitutes grounds for the suspension of performance by Contractor, in whole or in part.

21.4 Administrative Remedy.

Before submitting any matter not resolved in the ordinary course of business to the dispute resolution process described in §21.1, Contractor shall make a written request to GDR for a determination of the matter in dispute. The written request shall clearly state the disputed issue and include or incorporate by specific reference all information or documents that Contractor wants GDR to consider in reaching his determination. GDR shall issue a written notice of decision on the request, which shall be final and conclusive, unless appealed in writing to the GLO, within thirty (30) days of the notice. The notice of appeal shall particularly state the factual and legal basis for Contractor's objections to GDR's decision. The GLO will review the decision of GDR based on the written notice of appeal and the written record that was the basis of GDR's decision and issue a written notice of decision on appeal. The GLO's written notice of decision on appeal shall be final and conclusive on all matters except for claims of breach of contract which are then subject to the dispute resolution process described in §21.1.

21.5 Non-Waiver.

Nothing herein shall hinder, prevent, or be construed as a waiver of the GLO's right to seek redress on any disputed matter in a court of competent jurisdiction.

Article 22 – Miscellaneous

22.1 Conflict in Terms and/or Definitions.

Conflicting terms and/or definitions in any federal funding agency provisions; other laws, rules, or regulations; this document; the Contract; the Work Order(s); and any other issuances that may pertain to the services authorized by the GLO will be harmonized to the extent possible, and their meanings shall be ultimately determined, defined, or interpreted by, and in the sole discretion of, the GLO.

22.2 Written Notice and Method of Delivery.

Written notice shall be considered to have been duly given if the document is delivered in person to the designated representative of Contractor or the GLO for whom it is intended, if delivered at or sent by registered or certified mail, return receipt requested, to the last business address of the designated representative known to one who gives the notice, or transmitted by facsimile to the last known business facsimile number of the designated representative, with a receipt retained to prove delivery, or via electronic mail, return receipt requested. Notice is deemed effective when given rather than when received. However, notice by certified mail, or electronic mail is not effective until three (3) days after the date of mailing and notice by facsimile is not effective until the next business day after faxing.

22.3 Supplemental and Special Conditions.

When the Work contemplated by the GLO is of such a character that the Uniform General Conditions of the Contract cannot adequately cover necessary and additional contractual relationships, the Contract may include Special Conditions and other administrative requirements as described below:

22.3.1. Supplemental General Conditions. Supplemental General Conditions, if any, are incorporated herein and describe the standard procedures and requirements of contract administration followed by the GLO, a contracting agency of the State. Supplemental Conditions, if any, may expand upon matters covered by the Uniform General Conditions where necessary. Supplemental Conditions are of such a character that it is to be anticipated that a contracting agency of the State will normally use the same, or similar, conditions to supplement each of its several Projects.

22.3.2. Special Conditions. Special Conditions shall relate to a particular Project and be specific to that Project but shall not weaken the character or intent of the Uniform General Conditions or Supplemental General Conditions, if any.

22.4 Computation of Time.

In computing any time period set forth in this Contract, the first day of the period shall not be included, but the last day shall be.

22.5 Survival of Obligations.

All representations, indemnifications, warranties, and guarantees made in accordance with the Contract Documents will survive final payment, completion, and acceptance of the Work, as well as termination for any reason. All duties imposed upon Contractor by reason of termination, including, without limitation, the duty to assign subcontracts and contracts with vendors and suppliers, shall likewise survive the termination of the Contract.

22.6 No Waiver of Performance.

The failure of either party in any instance to insist on the performance of any of the terms, covenants or conditions of the Contract Documents, or to exercise any of the rights granted thereunder, shall not be construed as waiver of any such term, covenant, condition or right with respect to further performance.

22.7 Governing Law.

This Contract shall be governed by the laws of the State of Texas.

22.8 Captions and Catch Lines.

The captions and catch lines used throughout the Uniform General Conditions are for ease of reference only and have no effect on the meaning of the terms and conditions set forth herein.

22.9 Independent Contractor Status.

The Contract Documents create an independent contractor relationship between the GLO and Contractor and neither party's employees or contractors shall be considered employees, contractors, partners, or agents of the other party.

22.10 No third-party beneficiaries.

The parties do not intend, nor shall any clause be interpreted, to create in any third party any obligations to, or right of benefit by, such third party under these Contract Documents from either the GLO or Contractor.

22.11 Entire Agreement.

These Contract Documents supersede in full all prior discussions and agreements, both oral and written, between the parties relating to the subject matter hereof and constitute the entire agreement.

22.12 Assignment.

The Contract may not be assigned by either party without the prior written consent of the other.

22.13 Severability.

If any provision, sentence, clause, or Article of this Contract is found to be invalid or unenforceable for any reason, the remaining provisions shall continue in effect as if the invalid or unenforceable provisions were not in the Contract. All provisions, sentences, clauses, and Articles of this Contract are severable for this purpose.

22.14 Parties Bound.

Execution of this Contract by each party binds the entity represented as well as its employees, agents, successors, and assigns to its faithful performance.

22.15 No waiver of Sovereign Immunity.

Nothing herein shall be construed as a waiver of the State's sovereign immunity.

22.16 Record Retention.

Contractor shall maintain, in an organized and orderly manner, all records relevant to the Contract for the period of time prescribed by HUD for the CDBG-DR Program. **All participants under the Program, including Contractor, will be notified of the date upon which records may be destroyed.**

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Article 23 – Supplemental General Conditions

23.1 Non-Exclusive List of Laws, Rules, and Regulations.

If applicable to any Project, Contractor must be in compliance with the following laws, rules, and regulations; and any other state, federal, or local laws, rules, and regulations as may become applicable throughout the term of the Contract, and Contractor acknowledges that this list may not include all such applicable laws, rules, and regulations. **Contractor is deemed to have read and understands the requirements of each of the following, if applicable to the Project(s) under this Contract.**

23.1.1 Generally.

- 23.1.1.1** The Acts and Regulations specified in this Contract;
- 23.1.1.2** Consolidated Appropriations Act, 2016 (Public Law 114-113);
- 23.1.1.3** Consolidated Appropriations Act, 2017 (Public Law No. 115-31);
- 23.1.1.4** Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act (Public Law No. 114-223);
- 23.1.1.5** Further Continuing and Security Assistance Appropriations Act, 2017 (Public Law No. 114-254);
- 23.1.1.6** Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56);
- 23.1.1.7** The Housing and Community Development Act of 1974 (12 U.S.C. § 5301 et seq.);
- 23.1.1.8** The United States Housing Act of 1937, as amended, 42 U.S.C. § 1437f(o)(13) (2016) and related provisions governing Public Housing Authority project-based assistance, and implementing regulations at 24 C.F.R. Part 983 (2016);
- 23.1.1.9** Cash Management Improvement Act regulations (31 C.F.R. Part 205);
- 23.1.1.10** Community Development Block Grants (24 C.F.R. Part 570);
- 23.1.1.11** Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200);
- 23.1.1.12** Disaster Recovery Implementation Manual;
- 23.1.1.13** Plan for Disaster Recovery;
- 23.1.1.14** Executive Order 12892, as amended;

23.1.2 Civil Rights.

- 23.1.2.1** Title VI of the Civil Rights Act of 1964, (42 U.S.C. § 2000d et seq.); 24 C.F.R. Part 1, "Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development - Effectuation of Title VI of the Civil Rights Act of 1964;"
- 23.1.2.2** Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C. § 2000e et seq.);
- 23.1.2.3** Title VIII of the Civil Rights Act of 1968, "The Fair Housing Act of 1968" (42 U.S.C. 3601 et seq.), as amended;
- 23.1.2.4** Executive Order 11063, as amended by Executive Order 12259, and 24 C. F.R. Part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063." The failure or refusal of Contractor to comply with the requirements of Executive Order 11063 or 24 C.F.R. Part 107 shall be a proper basis for the imposition of sanctions specified in 24 C.F.R. 107.60;
- 23.1.2.5** The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);
- 23.1.2.6** Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794.) and "Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development", 24 C.F.R. Part 8. By signing this Contract, Contractor understands and agrees that the activities funded shall be performed in accordance with 24 C.F.R. Part 8; and the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.), including the use of a telecommunications device for deaf persons (TDDs) or equally effective communication system.

23.1.3 Labor Standards.

- 23.1.3.1** The Copeland "Anti-Kickback" Act (18 U.S.C. 874 and re-codified at 40 U.S.C. § 3145); 29 C.F.R. Part 3;
- 23.1.3.2** Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. § 327A and 330 and re-codified at 40 U.S.C. §§ 3701-3708);
- 23.1.3.3** Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act) (29 C.F.R. Part 5);
- 23.1.3.4** Federal Executive Order 11246, as amended;

23.1.4 Employment Opportunities.

- 23.1.4.1** Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C.1701u); 24 C.F.R. §§ 135.3(a)(2) and (a)(3);
- 23.1.4.2** The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. § 4212);
- 23.1.4.3** Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1688); and
- 23.1.4.4** Federal Executive Order 11246, as amended;

23.1.5 Grant and Audit Standards.

- 23.1.5.1** Single Audit Act Amendments of 1996, 31 U.S.C. § 7501;
- 23.1.5.2** Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200);
- 23.1.5.3** Uniform Grant and Contract Management Act (Texas Government Code Chapter 783) and the Uniform Grant Management Standards issued by Governor's Office of Budget and Planning; and
- 23.1.5.4** Title 1 Texas Administrative Code § 5.167(c);

23.1.6 Lead-Based Paint.

- 23.1.6.1** Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)); and 24 CFR 570.608 and 24 CFR Part 35, Subpart B, as applicable.

23.1.7 Historic Properties.

- 23.1.7.1** The National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 *et seq.*), particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2), except as provided in §58.17 for Section 17 projects;
- 23.1.7.2** Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 C.F.R. 1971-1975 Comp., p. 559, particularly section 2(c);
- 23.1.7.3** Federal historic preservation regulations as follows: 36 C.F.R. part 800 with respect to HUD programs;
- 23.1.7.4** The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 *et seq.*), particularly section 3 (16 U.S.C. 469a-1);

23.1.8 Environmental Law and Authorities.

- 23.1.8.1** Environmental Review Procedures for Recipients assuming HUD Environmental Responsibilities (24 C.F.R. Part 58, as amended);
- 23.1.8.2** National Environmental Policy Act of 1969, as amended (42 U.S.C. §§ 4321-4347);
- 23.1.8.3** Council for Environmental Quality Regulations for Implementing NEPA (40 C.F.R. Parts 1500-1508).

23.1.9 Floodplain management and wetland protection.

- 23.1.9.1** Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 C.F.R. part 55, particularly Section 2(a) of the Order (For an explanation of the relationship between the decision-making process in 24 C.F.R. part 55 and this part, see § 55.10.);
- 23.1.9.2** Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 C.F.R., 1977 Comp., p. 121 particularly Sections 2 and 5;

23.1.10 Flood Zone Restriction.

- 23.1.10.1** Contractor is responsible for ensuring that no funds under this Agreement will be used for any activity in an area delineated as a special flood hazard area (defined as zone “A”, “V”, “M” and “E” series) (44 CFR 64.3) in the Federal Emergency Management Agency’s (“FEMA”) most current flood advisory maps (Flood Insurance Rate Map, as amended by Letters of Map Amendment or Letters of Map Revisions) unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain in accordance with Executive Order 11988 and 24 CFR Part 55.

23.1.11 Coastal Zone Management.

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

23.1.12 Sole source aquifers.

- 23.1.12.1** The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) *et seq.*, and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 U.S.C. 300h-3(e));
- 23.1.12.2** Sole Source Aquifers (Environmental Protection Agency-40 C.F.R. part 149);

23.1.13 Endangered species.

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

23.1.14 Wild and scenic rivers.

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

23.1.15 Air quality.

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

23.1.16 Farmland protection.

- 23.1.16.1** Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 *et seq.*) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202);
- 23.1.16.2** Farmland Protection Policy (Department of Agriculture-7 C.F.R. part 658);

23.1.17 HUD environmental standards.

- 23.1.17.1** Applicable criteria and standards specified in HUD environmental regulations (24 C.F.R. part 51)(other than the runway clear zone and clear zone notification requirement in 24 C.F.R. 51.303(a)(3)); and
- 23.1.17.2** HUD Notice 79-33, Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials, September 10, 1979.

23.1.18 Environmental justice.

- 23.1.18.1** Executive Order 12898 of February 11, 1994—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, (59 FR 7629), 3 CFR, 1994 Comp. p. 859.

23.1.19 Suspension and Debarment.

- 23.1.19.1** Use of debarred, suspended, or ineligible contractors or subrecipients (24 C.F.R § 570.609);
- 23.1.19.2** General HUD Program Requirements; Waivers (24 C.F.R. Part 5); and
- 23.1.19.3** Non-procurement Suspension and Debarment (2 C.F.R. Part 2424).

23.1.20 Other requirements.

- 23.1.20.1** Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58).

23.1.21 Acquisition / Relocation.

- 23.1.21.1** The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et seq.*), 24 C.F.R. Part 42, and 24 C.F.R. Section 570.606.

23.1.22 Faith-Based Activities.

- 23.1.22.1** Executive Order 13279 of December 12, 2002 - Equal Protection of the Laws for Faith-Based and Community Organizations (67 FR 77141).

23.1.23 Noise Abatement.

- 23.1.23.1** HUD in 24 CFR Part 51, Subpart B. To help ensure noise levels do not become excessive, construction activities are restricted to mostly weekdays during daylight hours.

23.1.24 Guidance Documents.

- 23.1.24.1** State of Texas Plan for Disaster Recovery dated September 20, 2016.
- 23.1.24.2** State of Texas Plan for Disaster Recovery dated March 10, 2017.
- 23.1.24.3** State of Texas Plan for Disaster Recovery: Hurricane Harvey – Round 1, dated April 6, 2018, as amended.
- 23.1.24.4** Application Guide, issued by the Texas Department of Housing and Community Affairs.

23.2 Rental Assistance. Contractor is responsible for providing rental assistance to Homeowner if construction is not completed within one hundred twenty (120) days of the Notice to Proceed, regardless of the cause of the delay, in an amount not to exceed Two Thousand Dollars (2,000.00).

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PERFORMANCE BONDSTATE OF TEXAS
COUNTY OF _____

LET IT BE KNOWN BY THIS INSTRUMENT:

That we, _____ as principal

and we _____ a corporation
duly authorized to do business in this State, as Surety(s), are this date held and firmly
bound unto the State of Texas in the amount of _____

Dollars \$ _____

for payment of which indemnity the said Principal and Surety, by this declaration, do firmly bind
themselves, their heirs, executors, administrators, successors and assigns, jointly and individually.Since a Contract, which by reference is made a part hereof, exists between Principal and the State
of Texas, acting by and through the Texas General Land Office/Veterans Land Board, and dated
_____ for the _____The conditions of this obligation are, therefore, such that it shall remain in full force and effect unless
and until the Principal shall faithfully perform the Contract in accordance with the Contract
Documents.In the event of Principal's failure, as defined by the Contract Documents, to faithfully perform the
Contract, Surety(s) will within fifteen (15) days of determination of default, assume full responsibility
for completion of said Contract and become entitled to payment of the balance of the Contract
amount.The liabilities, rights, limitations, and remedies concerning this Bond shall be determined in
accordance with the provisions of Chapter 2253 of the Texas Government Code, as amended,
pursuant to which Bond is executed.IN WITNESS TO THIS DECLARATION, the said Principal and Surety(s) have signed and sealed this
instrument

this _____ day of _____

PRINCIPAL

SURETY

By _____

By _____

Bond Identification No. _____

Address of Attorney-In-Fact_____
Telephone No. of Attorney-In-Fact

PAYMENT BONDSTATE OF TEXAS
COUNTY OF _____

LET IT BE KNOWN BY THIS INSTRUMENT:

That we, _____ as principal

and we _____ a corporation
duly authorized to do business in this State, as Surety(s), are this date held and firmly
bound unto the State of Texas in the amount of _____

Dollars \$ _____

for payment of which indemnity the said Principal and Surety, by this declaration, do firmly bind
themselves, their heirs, executors, administrators, successors and assigns, jointly and individually.Since a Contract, which by reference is made a part hereof, exists between Principal and the State
of Texas, acting by and through the Texas General Land Office/Veterans Land Board, and dated
_____ for the _____The conditions of this obligation are, therefore, such that it shall remain in full force and effect unless
and until the Principal shall faithfully perform the Contract in accordance with the Contract
Documents.The liabilities, rights, limitations, and remedies concerning this Bond shall be determined in
accordance with the provisions of Chapter 2253 of the Texas Government Code, as amended,
pursuant to which Bond is executed.IN WITNESS TO THIS DECLARATION, the said Principal and Surety(s) have signed and sealed this
instrument

this _____ day of _____

PRINCIPAL

SURETY

By _____ By _____

Bond Identification No. _____

Address of Attorney-In-Fact_____
Telephone No. of Attorney-In-Fact

REQUIRED INSURANCE

GENERALLY. Contractor shall, at its sole expense, acquire, maintain, and keep in force for the duration of any Work Order issued under this Contract, insurance in the amounts attached herein and under the requirements specified herein. Furthermore, unless specified or otherwise agreed to by the GLO, the required insurance shall be in effect prior to the commencement of work by Contractor and shall continue in full force until the earlier as appropriate of (i) the expiration of the applicable Work Order(s); or (ii) such time as the GLO notifies Contractor that such insurance is no longer required. Any insurance or self-insurance available to the GLO shall be in excess of, and non-contributing with, any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. If, at any time during the term of any Work Order, an insurer or surety fails to provide insurance to Contractor or otherwise fails to comply with the requirements of this Contract, Contractor shall immediately notify the GLO and replace such insurance or bond with an insurer meeting such requirements. General aggregate limits of Contractor's Commercial General Liability policy shall apply per project. Contractor's auto insurance policy shall apply to "any auto."

Approval. Prior approval of the insurance policies by the GLO shall be a condition precedent to any payment of consideration under this Contract and insurance must be submitted for review and approval by the GLO prior to the commencement of work. Any failure of the GLO to timely approve or failure to disapprove the insurance furnished by Contractor shall not relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract.

Continuing Coverage. The GLO's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent to this Contract.

Renewal. Contractor shall provide the GLO with renewal or replacement certificates no less than thirty (30) days before the expiration or replacement of the required insurance.

Additional Insured Endorsement. The GLO, its officers, employees, and authorized agents shall be named as additional insureds for all liability arising under any Work Order issued under this Contract except on Workers' Compensation and Professional Liability policies. **An original additional insured endorsement signed by an authorized insurance company representative must be submitted to the GLO to evidence the endorsement of the GLO as an additional insured on all policies, and the certificate(s) must reference the related GLO Work Order Number.**

Subrogation. Each liability insurance policy, except Professional Liability, shall provide for a waiver of subrogation as to the State of Texas, the GLO, and their officers, employees, and authorized agents, and shall be issued by insurance companies authorized to do business in the State of Texas, and currently rated by A.M. Best as "A-" or better.

Policy Cancellation Endorsement. Except for ten (10) days' notice for non-payment of premium, each insurance policy shall be endorsed to specify that without 30 days' prior written notice to the GLO, the policy shall not be canceled, non-renewed, or coverage and/or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to the address provided in the applicable Work Order. A copy of this signed endorsement must be attached to this Contract.

Alternative Insurability. Notwithstanding the requirements of this Attachment, the GLO reserves the right to consider reasonable alternative methods of insuring the Work Order(s) in lieu of the insurance policies and/or bonds required. It will be Contractor's responsibility to recommend to the GLO alternative methods of insuring the Work Order(s). Any alternatives proposed by Contractor should be accompanied by a detailed explanation regarding Contractor's inability to obtain insurance coverage as described in this Contract. The GLO shall be the sole and final judge as to the adequacy of any substitute form of insurance coverage.

INSURANCE REQUIRED PER WORK ORDER:

TYPES OF COVERAGE		LIMITS OF LIABILITY
a. Worker’s Compensation		
Statutory		
b. Employer’s Liability		
Bodily Injury by Accident	\$500,000 Ea. Accident	
Bodily Injury by Disease	\$500,000 Ea. Employee	
Bodily Injury by Disease	\$500,000 Policy Limit	
c. Commercial General Liability, including coverage for the following:		
Premises Operations	Combined single limit for bodily injury and property damage of \$1,000,000 per occurrence or its equivalent	
Independent Contractors		
Products/Completed Operations		
Personal Injury		
Contractual Liability		
Explosion, Collapse, Underground		
Broad form property damage, to include fire legal liability		
d. Business Automobile Liability owned/leased, owned, hired		
Combined single limit for Non-Bodily Injury and Property Damage of \$1,000,000 per occurrence or its equivalent.		
e. The GLO’s Protective Liability Insurance Policy, naming the State of Texas and its employees as insured with the following limits:		
Bodily Injury	\$1,000,000 Each Occurrence	
	\$1,000,000 Aggregate	
f. Builder’s Risk Insurance		
Must have an all risk policy, in the amount equal at all times to one hundred percent (100%) of the Work Order total sum. The policy shall include coverage for loss or damage caused by certified acts of terrorism as defined in the Terrorism Risk Insurance Act. The policy shall be issued in the name of Contractor and shall name his Subcontractors as additional insureds. The GLO shall be named as a loss payee on the policy. The builder’s risk policy shall have endorsements as follows:		
1. This insurance shall be specific as to coverage and not considered as contributing insurance with any permanent insurance maintained on the present premises. If off Site storage is permitted, coverage shall include transit and storage in an amount sufficient to protect property being transported or stored.		
2. For renovation Projects and or portions of Work contained within an existing structure, the GLO waives subrogation for damage by fire to existing building structure(s), if the builder’s risk policy has been endorsed to include coverage for existing building structure(s) in the amount described in the Special Conditions. However, Contractor shall not be required to obtain such an endorsement unless specifically required by the Special Conditions. In this Contract, the aforementioned waiver of subrogation shall not be effective unless such endorsement is obtained.		
g. Flood insurance when specified in Supplementary General Conditions or Special Conditions.		
h. Umbrella coverage when specified in Supplementary General Conditions or Special Conditions.		

NOTE: Insurance certificates must be in the form approved by the Texas Attorney General, a sample of which follows this page.

Insurance Certificates must:

- (a) be submitted to insurance@GLO.TEXAS.GOV;
- (b) **prominently display "GLO Contract No. 19-094-014"**; and
- (c) name the General Land Office as an additional insured.

Failure to submit required insurance forms as instructed may significantly delay the start of work under the Contract.

REQUIRED FORM OF CERTIFICATE FOLLOWS THIS PAGE

Contract No. *****



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	<div style="border: 2px solid red; padding: 5px; display: inline-block;">Required form of Insurance</div>	CONTACT NAME:		FAX (A/C, No):	
		PHONE (A/C, No, Ext):		E-MAIL ADDRESS:	
INSURED		INSURER(S) AFFORDING COVERAGE			NAIC #
		INSURER A:			
		INSURER B:			
		INSURER C:			
		INSURER D:			
		INSURER E:			
		INSURER F:			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY						EACH OCCURRENCE \$
	COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
	CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/>						MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$
	POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/>						PRODUCTS - COMP/OP AGG \$
							\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	ANY AUTO						BODILY INJURY (Per person) \$
	ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED <input type="checkbox"/> RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/>
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



Builder Assignment Method

Community Development and Revitalization

Table of Contents

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DRAFT – Subject to revision prior to execution of any work order by and between Contractor(s) and the GLO**BUILDER ASSIGNMENT METHOD FOR HOMEOWNER ASSISTANCE PROGRAM****I. Introduction**

The Texas General Land Office (GLO) Community Development and Revitalization program (CDR) released Request for Proposal (RFP) no. X0014978-AW on May 22, 2018 to identify highly qualified construction builders (hereinafter, individually referred to “Contractor”) to perform rehabilitation, reconstruction, and new construction of single-family and multi-family residential structures in compliance with local, Federal, and State statutory requirements for grants under the United States Department of Housing and Urban Development (“HUD”) Community Development Block Grant Disaster Recovery (“CDBG-DR”) program for the 2015 and 2016 Texas flood events, Hurricane Harvey, and future CDBG-DR allocations (the “Disasters”) within the contract period.

The GLO chose Contractors to receive indefinite delivery/indefinite quantity contracts, establishing a sufficient pool of vendors to complete the anticipated work in a timely manner. Each Contractor will be issued a Work Order per each Zone, as defined in the GLO contract executed by the Contractor, in which the Contractor will provide rehabilitation, reconstruction, and/or new construction services. Selected Contractor(s) in each Zone will be awarded Homeowner Assistance Program (HAP) Projects in accordance with this Builder Assignment Method.

II. Builder’s General Requirements

Each Contractor is bound by all terms, conditions, obligations, and requirements set forth in its GLO Contract and the GLO’s Housing Guidelines for the applicable declared disaster (<http://recovery.texas.gov/hud-requirements-reports/housing-guidelines/index.html>). Failure to comply with all requirements may result in the GLO declaring the Contractor ineligible to continue work with the GLO’s CDBG-DR housing recovery program or limiting future project assignments to the Contractor.

The value of all project assignments allocated to a Contractor may not exceed the Contractor’s bonding capacity at any time. Additionally, prior to the issuance of a project’s Notice to Proceed (NTP), the Contractor will provide a copy of all required bonds and insurance coverage, as outlined in its contract.

This Builder Assignment Method will be applied to rehabilitation projects, reconstruction, and new construction projects.

III. Project Assignment Method and Review

Eligible HAP projects will be batched into groups and assigned to Contractor(s) using the following methodology:

A. Assignment of initial projects

Initial batches of eligible projects will be assigned to Contractors in ranking order of the scores recorded in the solicitation evaluation process. Each initial batch of projects will not exceed ten (10) projects, with the number of projects assigned to be limited by the bonding capacity value indicated in the Contractor's contract documents. When feasible, projects will be bundled based on close geographic proximity (not to exceed 8 contiguous lots).

1. The GLO Grant Administrator ("GA") and the Contractor will assess the scope of work for each assigned project.
2. A Form 11.17, Work Write-Up/Cost Estimate, as provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>, shall be completed for each project. The Contractor may request site-specific construction tasks and all rehabilitation tasks within the Form 11.17. Modifications must meet all requirements in the contract and applicable GLO Housing Guidelines. Once the scope of work is finalized, the Form 11.17 will be signed by all involved parties.
3. Upon completion of the Form 11.17 for a project, the GLO will issue the Notice to Proceed (NTP) on the project to the Contractor.
4. Work on eligible projects must begin within seven (7) calendar days of the NTP issuance.

B. Review of the Initial Assigned Projects

Prior to receiving subsequent project assignments, the Contractor(s) will be evaluated on performance of the initial projects by means of the required Progress Inspections, conducted at the fifty percent (50%) level of construction completion on the projects. At the time of evaluation, at least 50% of the initial batch of projects must have completed the Progress Inspection. The following items will be reviewed during the Progress Inspection and cumulatively scored for the projects reviewed:

1. Workmanship (33%)
 - a. Number of failed items at 50% inspection.
2. Project Management (33%)
 - a. Start time: number of days from NTP issuance to start of construction.
 - b. 50% Build time: number of days from NTP issuance to 50% inspection.
 - c. Content of change orders issued (rehabilitation projects only).
3. Customer Service (33%)
 - a. Timeliness of scheduling.

- b. Responsiveness to concerns raised by stakeholders (GLO, GA, homeowner).
 - c. Overall homeowner communication and satisfaction (provide survey to each project).
4. Number of complaints received relating to Contractor performance.

If the Contractor's work does not adhere to the requirements of the contract or GLO Housing Guidelines or meet GLO standards upon the evaluation of the initial projects described in this section, the GLO may reduce future project assignments to the Contractor or remove the Contractor from the program.

C. Assignment and Continuous Review of Subsequent Projects

The volume of subsequent work allocated to a builder will be dependent upon the measurable performance in completing the projects in a timely and satisfactory manner and in accordance with the requirements of the program, as well as the builder's ability to meet all contracted requirements.

The following items will make up the evaluation scoring criteria:

1. Workmanship (33%)
 - a. Number of failed items at Progress (50%) Inspection.
 - b. Number of failed items at Final (100%) Inspection.
 - c. Number of failed items at Texas Real Estate Commission (TREC) Inspection.
 2. Project Management (33%)
 - a. Start time: number of days from NTP issuance to start of construction.
 - b. 50% Build time: number of days from NTP issuance to Progress Inspection.
 - c. Project Completion build time: number of days from NTP to construction completion.
 - d. Content of change orders issued (rehabilitation only).
 3. Customer Service (33%)
 - a. Timeliness of scheduling.
 - b. Responsiveness to concerns raised by stakeholders (GLO, GA, homeowner).
 - c. Overall homeowner communication and satisfaction (provide survey to each project).
- d. Number of complaints received relating to Contractor performance.

Contractors who consistently fail to meet expectations upon the review of each assigned project will have their allocations of projects reduced in subsequent

assignments. If a Contractor does not demonstrate improvement in substandard evaluation scores through the evaluation of subsequent projects, the GLO may reduce future project assignments to the Contractor or remove the Contractor from the program.



Attachment H
GLO Contract No. 19-094-014
DRAFT

Texas General Land Office
Community Development and Revitalization
Contractor-Homeowner Agreement

Contractor Information	
Funding Source:	Federal Award Number:
Building Contractor - "Contractor":	Contractor Address:
Homeowner Information	
Applicant Name:	Co-Applicant Name:
Applicant Address - "Property":	Applicant City/State/ZIP:

Applicant and Co-Applicant(s) shall be collectively referred to in this Agreement as "Homeowner".

Contractor and Homeowner are referred to individually as a "Party" to this Agreement and, collectively, the "Parties."

ARTICLE 1

1.1 Definitions

The terms used in this agreement shall have, unless the context clearly indicates otherwise, the meanings specified within this Article:

"[Contractor-Homeowner Agreement](#)" or "[Agreement](#)" means this agreement executed by and between Contractor, as primary builder of the Property, and Homeowner as the beneficiary of federal grant funds.

"[Contractor](#)" means the primary contracted builder of the property.

"[GLO](#)" means the Texas General Land Office, its officers, employees, and designees, and the State of Texas and any duly authorized representative, acting by and through the GLO.

"[GLO's Designated Representative](#)" or "[GDR](#)" means the individual appointed or assigned by the GLO to be its on-site representative during the Project(s), to exercise certain powers on behalf of the GLO and to undertake certain contract administration activities, as specifically outlined in the Contract Documents. GDR may also be referred to as Project Manager ("PM"), and the terms are interchangeable.

“[Homeowner](#)” means, collectively, the Applicant and any Co-Applicants, who upon receipt of funds from Lender, agrees to the repayment of those funds in accordance with the terms outlined in this Note.

“[Notice to Proceed](#)” means the written authorization from the GLO giving Contractor the authority to commence Work for a specified Project.

“[Program](#)” means the U.S. Department of Housing and Urban Development’s Community Development Block Grants for Disaster Recovery program

“[Scope of Work](#)” or “[SOW](#)” means a detailed construction document authorized by the GLO that outlines all Work to be performed on the Property to repair and restore the Property from damages incurred due to a Presidentially-declared disaster.

“[Work](#)” means all labor, plans, materials, facilities, and all services necessary or incidental to the fulfillment of the activities, requirements, and obligations included in any Scope of Work.

ARTICLE 2

2.1 Purpose

The purpose of this Agreement is to authorize Contractor to repair, reconstruct, or replace residential structure(s) owned by Homeowner, located on the Property and damaged or destroyed due to a Presidentially-declared disaster, and for any other services identified in the Scope of Work which are included to meet requirements of the Program (collectively, the “Project”).

2.2 Project Funding

All funding for the Project is being provided by the United States Department of Housing and Urban Development pursuant to (“the “Program”), which is administered by the Texas General Land Office (the “GLO”). Homeowner is not required to pay fees or provide any type of payment to Contractor or other third parties in order to participate in this program.

2.3 Acceptance of Scope of Work and Consent to Perform the Project

Homeowner hereby acknowledges the receipt and review of the Project Scope of Work presented to Homeowner by the GLO or the GLO’s Designated Representative (GDR). Homeowner and Contractor acknowledge and agree that each Party has fully reviewed the SOW, and the Parties hereby accept and consent to the terms and conditions of the SOW, which specifies the construction Work and other activities, such as environmental mitigation, to be conducted by Contractor on the Property. The Parties acknowledge and agree that only the GLO or GDR may add tasks to the SOW, and only the GLO or GDR can authorize Contractor to perform any additional tasks.

2.4 Responsibility of Homeowner

- (a) **Property Access, Cooperation, and Noninterference.** Homeowner grants full access to the Property to the GLO and its authorized designees including, but not limited to, Contractor, Contractor's workforce and subcontractors, the GDR, the subrecipient, if any, and any authorized inspectors, employed by the GLO or other governmental entity with appropriate legal authority, as may be required to make inspections and to complete the Project.

Homeowner agrees to cooperate with all parties identified above and their designees and to not unreasonably interfere with the Work on the Project or inspections of the Property. In the event that Homeowner unreasonably interferes with the Work or an inspection in any manner, Contractor shall deliver a written notice to Homeowner and the GDR, ordering Homeowner to cease any activity causing the interference. If Homeowner does not cease the activities specified in the notice within three (3) calendar days, Homeowner may be prohibited from participating in the Program and may be required to reimburse GLO for all Work performed on the Property by Contractor.

Homeowner agrees to cooperate with Contractor to ensure that all utilities, including water, sewer, and electrical service, are available for use by Contractor and supplied to the Property for the duration of the Project.

- (b) **Site Ready.** Upon execution of this Agreement by the Parties, Homeowner agrees to remove all personal items and valuables from the Property and disconnect utilities, if instructed to do so by the GLO or Contractor, within fifteen (15) days. Neither the GLO nor any of its designees, including Contractor, shall bear responsibility or liability for the loss, misplacement, or damage to any such items not removed timely by Homeowner. Notwithstanding the preceding, if Homeowner's items are damaged or lost solely through negligence of Contractor, Contractor will reimburse Homeowner for such damage, loss, or utility expenses within fifteen (15) days' written request by Homeowner to Contractor, with a copy to the GLO or the GDR.
- (c) **Duty to Inform.** Homeowner shall inform Contractor of any known onsite hazards on the Property including, but not limited to, buried lines, tanks, septic systems, water wells, the presence of natural hazards, venomous insects or snakes, and propane tanks.
- (d) **Notice to Homeowner and Any Occupants of the Property.** Homeowner confirms that all occupants of the Property and all persons who may claim an interest in the Property have been notified of the terms of this Agreement. By executing this Agreement, Homeowner certifies Homeowner has the authority to act on behalf of all occupants of the Property and all other persons who claim any interest in the Property.
- (e) **Acknowledgment of Receipt of Documents.** Homeowner hereby reaffirms all information provided in the required documents Homeowner executed as part of the application process under the Program and agrees to all provisions set forth thereunder.
- (f) **Lead and Asbestos.** If applicable, Homeowner acknowledges receipt of, and has reviewed and acknowledges, disclosures pertaining to lead-based paint and asbestos-containing building materials.

2.5 Responsibility of Contractor

- (a) **Rental Assistance in the Event of Delayed Construction.** Contractor is responsible for providing rental assistance to Homeowner if the Project is not completed within one-hundred twenty (120) days of the Notice to Proceed, regardless of the cause of the delay, in an amount not to exceed Two Thousand Dollars (\$2,000.00).
- (b) **Warranty Issues and Follow-Up.** Contractor will provide a set of limited warranties and building and performance standards which include a one (1) year workmanship and materials warranty, a two (2) year electrical, mechanical, and delivery system warranty, and a ten (10) year structural warranty. Contractor shall furnish Homeowner with all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under the SOW. Contractor shall, within ten (10) working days' notice from the GLO or GDR and at Contractor's sole expense, correct or make good any defects that arise from defective or improper materials or workmanship appearing within twelve (12) months from final acceptance of the Project. Contractor's warranty shall not include normal wear and tear. Homeowner is responsible for all operation, costs, and maintenance of the Property subsequent to the completion and acceptance of the Project. Homeowner will contact the GLO or GDR concerning all warranty items related to the Project. Contractor shall remain liable for defects in the Project as provided under Texas law. None of the offices, agencies, or employees of the Federal government or the State of Texas warranty any of the materials, goods or services provided under this Agreement.
- (c) **Conditions of the Premises.** Contractor agrees to keep the Property orderly and to remove all debris, as needed, during the course of the Project in order to maintain safe working conditions. Homeowner agrees that Contractor may prohibit entry to the Property due to safety concerns for a reasonable period needed to provide a safe environment for entry, after which the Property visit may occur.

2.6 Additional Provisions

- (a) **Final Approval of the Project.** The GLO's authorized inspectors, and any local inspectors, as necessary, shall perform all required inspections of the Project, after which the GLO will review and approve the completed Project. If Homeowner disagrees with the results of the final inspection, Homeowner must notify Contractor and the GDR in writing within five (5) days of the final inspection to properly file its protest. If the GLO concurs with the Homeowner, the GLO or GDR will request that the original contractor perform any work deemed to be required. If the GLO, in its sole discretion, determines that the Contractor has not completed the Work adequately, a second contractor may be selected to perform additional services to be set forth on a separate SOW, and Homeowner agrees to continue to provide access and cooperation concerning the Project, in accordance with Section 2.4 of this Agreement. If the GLO or GDR determines that the second contractor has completed the Work satisfactorily, but Homeowner does not accept the Work as performed within seven (7) days of its completion, the GLO or GDR may accept the Work on behalf of Homeowner to close out the Project.
- (b) **Liens.** Neither Homeowner nor Contractor will suffer or permit any mechanics' or

materialman's lien claims, whether statutory or constitutional, to be filed or otherwise asserted against the Property or against any funds due to Contractor and will promptly seek discharge of any such lien claims filed. Contractor, subcontractors, suppliers, vendors, tradesmen, and any other persons or entities performing Work on the Property are strictly prohibited from placing liens on said Property. Contractor is solely responsible for informing all persons or entities of such strict prohibition. Contractor is solely responsible for the removal of any lien, and any associated expense involved therewith, or any lien placed on the Property by any subcontractor, supplier, vendor, trade or other person or entity performing work for Contractor, irrespective of the fault of cause of such attachment.

- (c) **Additional Work.** Homeowner and Contractor agree that any repairs or improvements made to the Property not included in this Agreement and the Project hereunder, as authorized by the GLO or GDR, will be by a separate agreement between Homeowner and Contractor. Homeowner and Contractor agree that Program funds are to be used solely for performance of the Work outlined in the Scope of Work for the Project and shall not be used for other purposes or improvements on the Property that are not part of the Project. Absent express permission from the GLO or GDR, additional work agreed upon by Homeowner and Contractor cannot be initiated until after all Work identified in the SOW has been completed and passed final inspection, and Contractor has received the Program's thirty (30) day retainage payment.
- (d) **Force Majeure.** No Party will be liable for any failure or delay in performing its obligations under this Agreement if such failure or delay is due to any cause beyond the reasonable control of such Party including, but not limited to, unusually severe weather, labor strikes, natural disasters, severe fire, civil disturbance, epidemic, war, acts or threatened acts of terrorism, court order, or acts of God. The existence of such causes of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Each Party must inform the other of any cause of performance failure or delay, by written notice, within five (5) business days of the existence of a Force Majeure event and provide a copy of the notice to the GLO or GDR, with proof of receipt. Failure to provide timely notice of the existence of a Force Majeure event waive the Party's right to assert the Force Majeure event as a defense to any claims that may arise from the delay or failure of performance. A claim of delay or failure of performance due to a Force Majeure event shall be subject to review by the GLO or GDR, who shall have the final say on any extension of the period of performance and the length of said extension.
- (e) **Assignment.** Contractor enters this Agreement pursuant to a assignment issued by the GLO. The GLO may, in its sole discretion and at any time, terminate that assignment and assign another contractor to perform under the original SOW or a new SOW. In the event that a new contractor is assigned to perform any Work, the new contractor must accept the terms of this Agreement. If a new contractor is assigned to perform any Work on the Project, Homeowner agrees that all rights and obligations created by this Agreement will survive the assignment, with the new contractor succeeding to those rights and obligations of Contractor.
- (f) **Amendment.** This Agreement may be amended by written agreement between the

Parties.

- (g) **Headings.** The headings or captions in this Agreement are for convenience and reference only and shall not be construed or interpreted as expanding, limiting, defining, or otherwise construing the terms and provisions of this Agreement as set forth herein.
- (h) **Counterparts.** This Agreement may be executed in counterparts by facsimile transmission or by electronic mail as a portable document format (.pdf) file. Each counterpart shall be considered an original and all counterparts shall, together, constitute but one and the same document.
- (i) **Third-Party Beneficiary.** The Parties agree that the Texas General Land Office, as administrator of the Program, is a third-party beneficiary to this Agreement and that the GLO shall have the right to enforce any provision of this Agreement. The GLO shall enforce a provision of the Construction Agreement only after notifying Contractor and Homeowner, in writing, of potential breach or default of the Agreement and allow sixty (60) days to cure the breach or default. Venue of any suit under this section shall be in a court of competent jurisdiction in Travis County, Texas. The Parties irrevocably waive any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of *forum non conveniens*, which they may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Agreement or any document related hereto. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**
- (j) **Effective Date.** This Agreement is effective on the date it is signed by the last Party.

Signatures	
Homeowner Name:	
Homeowner Signature:	Date:
Co-Homeowner Name:	
Co-Homeowner Signature:	Date:
Contractor Name:	
Contractor Signature:	Date:



**AMENDMENT NO. 1 TO
GLO CONTRACT NO. 19-094-014**

THE GENERAL LAND OFFICE (the “GLO”) and **DRC CONSTRUCTION, LLC** (“Contractor”), each a “Party” and collectively “the Parties” to GLO Contract No. **19-094-014** (the “Contract”), now desire to amend the Contract.

WHEREAS, the Parties desire to revise certain Contract Documents to reflect the updated Builder’s Risk Insurance requirements;

NOW, THEREFORE, the Parties hereby agree as follows:

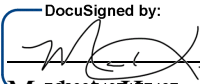
1. **ATTACHMENT D** to the Contract, **Uniform General and Supplemental Conditions**, is deleted in its entirety and replaced with the **Revised Uniform General and Supplemental Conditions**, attached hereto and incorporated herein in its entirety for all purposes as **ATTACHMENT D-1**.
2. **ATTACHMENT F** to the Contract, **Required Insurance and Certificate(s) of Insurance**, is deleted in its entirety and replaced with the **Revised Required Insurance and Certificate(s) of Insurance**, attached hereto and incorporated herein in its entirety for all purposes as **ATTACHMENT F-1**.
3. This Amendment shall be effective upon the date of the last signature.
4. The terms and conditions of the Contract not amended herein shall remain in force and effect.

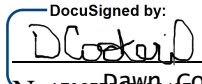
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




**SIGNATURE PAGE FOR AMENDMENT NO. 1 TO
GLO CONTRACT NO. 19-094-014**

GENERAL LAND OFFICE

DRC CONSTRUCTION, LLC

DocuSigned by:

7629954371E74497
Mark A. Havens, Chief Clerk/
Deputy Land Commissioner
Date of execution: 10/25/2019

DocuSigned by:

AF3C7EB3F03C42E...
Name: Dawn Cockerill
Title: Owner
Date of execution: 10/24/2019

OGC 
PM 
DD 
SDD 
DGC 
GC 

ATTACHED TO THIS AMENDMENT:

ATTACHMENT D-1 – Revised Uniform General and Supplemental Conditions

ATTACHMENT F-1 – Revised Required Insurance and Certificate(s) of Insurance

UNIFORM GENERAL AND SUPPLEMENTAL CONDITIONS
CDBG-DR HOME BUILDERS

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Article 1 – General Contract Definitions

Unless the context clearly requires another meaning, the following terms shall have the meaning assigned below:

“Applicant” means a citizen or household eligible to receive benefits under the CDBG-DR Program for housing services.

“Building Contractor’s Request for Payment” means Form 11.04, signed by Contractor, Homeowner, and Inspector. This form will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>.

“Case Manager / Mobility Counselor” means the firm responsible for providing comprehensive application management and mobility counseling services to Applicants under the Program, under separate contract with the GLO.

“CDBG-DR” (or “Program”) means the U.S. Department of Housing and Urban Development’s (“HUD”) Community Development Block Grants for Disaster Recovery Program, including residential repair, construction, or reconstruction projects or programs administered by the GLO.

“Change Order” means a document executed by the GLO or the GDR (and the Contractor, if required), authorizing revisions to a Project.

“Change Order Request” means a written request initiated by the GLO, GDR, or Contractor in the event additional Work is necessary on a Project, describing the type of additional Work needed, the cost of the additional Work, and the time necessary for the additional Work to be completed.

“Close-out Documents” means the product brochures, product/equipment maintenance and operations instructions, manuals, warranties, as-built record documents, affidavits of payment, releases of lien and claim, etc., and as may be further defined or identified and required by the Contract Documents.

“Contract” means all of the Contract Documents between the GLO and Contractor.

“Contract Date” is the effective date of the Contract.

“Contract Documents” means the Contract, the Conditions of the Contract (General, Supplementary General, and Special Conditions), any Work Order(s) issued under the Contract, and any Change Order(s) issued; the drawings, specifications, bidding documents; and any Contractor-Homeowner Agreement(s).

“Contractor” means the individual, corporation, company, partnership, firm, or other organization that has contracted with the GLO to perform the Work under the Contract.

“Contractor-Homeowner Agreement” means the agreement signed by the Contractor and the Homeowner prior to the commencement of Work on an assigned Project.

“Contract Sum” means the total compensation payable to Contractor under any Work Order(s) issued under the Contract.

“Contract Time” means the period between the date the Notice to Proceed was issued by the GLO to Contractor for an assigned Project and the date scheduled for Final Completion of the Project in the Contract Documents, as may be amended by Change Order. Unless otherwise specified in writing, Contractor shall achieve Final Completion within one hundred twenty (120) days of receipt of the Notice to Proceed.

“Date of Commencement” means the date designated in a Notice to Proceed that Contractor shall commence the Work for a specified Project.

“Day” means a calendar day, unless otherwise specifically stipulated.

“Drawings” mean the work product, consisting of construction blueprints and/or plans, that depicts the location and quantity of elements of the Work.

“Final Completion” means that the Improvements are fit for their intended use in accordance with the Plans and Specifications, and all items specified in Article 15 have been executed and delivered to, and accepted by, the GLO or the GDR.

“Final Inspection” means an inspection conducted to determine whether: Work has been completed as authorized; all deficiencies have been corrected; and to release Retainage and/or make Final Payment to Contractor.

Final Payment means the payment of 40% of the Project Sum to Contractor upon receipt by the GLO of a payment request submitted by Contractor after the completion of the Final Inspection.

Form 11.02 Pre-Construction Conference Report and Notice to Proceed means a GLO Form 11.02, signed by the Homeowner, Contractor, and Program to allow the initiation of construction. This form will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>.

GLO means the Texas General Land Office, its officers, employees, and designees, and the State of Texas and any duly authorized representative, acting by and through the GLO.

GLO's Designated Representative or **GDR** means the individual appointed or assigned by the GLO to be its on-site representative during the Project(s), to exercise certain powers on behalf of the GLO and to undertake certain contract administration activities, as specifically outlined in the Contract Documents. GDR may also be referred to as Project Manager ("PM"), and the terms are interchangeable.

Homeowner means an Applicant, as defined herein, who owns the parcel of real property identified as the Site of the residential reconstruction, rehabilitation, or new construction activity assigned to Contractor.

Housing Unit means one single-family dwelling or one unit in a multi-family residential complex.

Inspector means a qualified individual who examines and assesses Work done on the Project(s). "Qualified," for purposes of this definition, means that individual has: a current certification from a recognized construction organization, or five years construction experience (minimum), or approval by the GLO.

Improvement means Work by Contractor that has been ordered completed, revised, or corrected in any way by the GLO or GDR.

New Construction means a new home constructed on a previously undeveloped parcel.

Notice to Proceed means the written authorization from the GLO giving Contractor the authority to commence Work for a specified Project.

Plans and Specifications means the construction plans to be used during construction to establish that all applicants who receive new construction, reconstruction, or rehabilitation construction housing through programs funded by the GLO live in housing which is safe, sanitary, and affordable.

Pre-Construction Conference means an informational meeting between the Contractor and Homeowner during which Project details are discussed and required Project documentation is executed.

Program (or **CDBG-DR**) means HUD's Community Development Block Grants for Disaster Recovery Program, including residential repair, construction, or reconstruction projects or programs administered by the GLO.

Progress Inspection means an inspection conducted at the fifty percent (50%) level of construction completion to determine whether the Work that has been performed to date is complete and accurate according to the Plans and Specifications.

Progress Payment means the payment of 50% of the Project Sum to Contractor upon receipt by the GLO of a payment request submitted by Contractor after successful completion of a Progress Inspection for a specified Project.

Project means the Work authorized by the GLO to be performed on a residential structure assigned to the Contractor, as more fully described in the Contract Documents.

Project Sum means the total compensation payable to Contractor for completion of the Work for one Project.

Property means that certain parcel of real property that is the Site of the Housing Unit assigned to Contractor as a Project, to be rehabilitated, reconstructed, or newly built.

Reconstruction means a new house built on the homeowner's land to replace the homeowner's previous dwelling.

Rehabilitation means the repair or restoration of Housing Units damaged during a disaster event to applicable construction codes and standards.

Samples means the physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish standards by which the Work will be judged.

Satisfactory Progress means the acceptable level of advancement of a Project by Contractor, as indicated by the timely scheduling of each required inspection within the time period assigned to the respective percentage of completion on the Project's pay schedule.

For Reconstruction and New Construction Projects, the following schedule shall apply:

1. Fifty percent (50%) inspections must be scheduled within sixty (60) days of the Notice to Proceed for a one hundred (120) day Contract Time.
2. Final Inspections must be *passed* within one hundred twenty (120) days of the Notice to Proceed for a one hundred twenty (120) day Contract Time.

For Rehabilitation Projects, the following schedule shall apply:

1. Fifty percent (50%) inspections must be scheduled within sixty (60) days of the Notice to Proceed for a one hundred twenty (120) day Contract Time.
2. Final Inspections must be *passed* within one hundred twenty (120) days of the Notice to Proceed for a one hundred twenty (120) day Contract Time.

“[Shop Drawings](#)” means the drawings, diagrams, illustrations, schedules, performance charts, brochures, and other technical data which are prepared by Contractor or any Subcontractor, manufacturer, supplier, or distributor and which illustrate some portion of the Work.

“[Sign Off](#)” means the process indicating that Contractor’s Work on the Housing Unit as required under the Contract and Work Order is complete and Homeowner has accepted the performance as satisfactory.

“[Site](#)” means the geographical area at the location where the Work is to be performed.

“[Special Conditions](#)” means the documents containing terms and conditions relating to a specific Project and particular to it. Special Conditions, when used, are a part of the Contract Documents and supersede the Uniform General Conditions to the extent of conflict.

“[Specifications](#)” means any work product, whether produced by the GLO or an outside agency, which establishes the quality of the products and processes to be used to produce the Work.

“[Subcontractor](#)” means a person or organization that, as an independent contractor, contracts directly or indirectly with Contractor to perform part of or the entire Contract between the GLO and Contractor.

“[Supplemental General Conditions](#)” means the standard procedures and contract administration requirements of an individual State contracting agency that alter or expand upon matters covered in the Uniform General Conditions. Supplemental General Conditions, when used, are a part of the Contract Documents and supersede the Uniform General Conditions to the extent of conflict.

“[Time Extension Request](#)” means a written notice submitted to the GLO or GDR by Contractor in the event Contractor believes Work on a Project has been delayed by a circumstance designated as excusable under §19.1.3, other than inclement weather.

“[Timely](#)” means within forty-eight (48) hours, or a period of time otherwise specified by the GLO or GDR.

“[Unit Price Work](#)” means Work to be paid for on the basis of unit prices submitted by Contractor pursuant to GLO RFP No. X0014978-AW.

“[Work](#)” means all labor, plans, materials, facilities, and all other services necessary or incidental to the fulfillment of Contractor’s obligations for a Project in conformance with the Contract Documents.

“[Work Order](#)” means an individually negotiated document authorizing specified Work under the Contract, if any.

NOTE: THE TERMS “BID,” “BIDDER,” OR SIMILAR TERMS USED IN THIS DOCUMENT ALSO MEAN “PROPOSAL,” “PROPOSER,” OR “RESPONDENT” AS APPROPRIATE FOR THE TYPE OF PROJECT FOR WHICH THESE GENERAL CONDITIONS ARE USED.

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Article 2 – General Laws Governing Construction

2.1 Compliance with Laws.

In the execution of the Contract Documents and the Work, Contractor shall comply with all applicable state and federal laws, rules, and regulations including, but not limited to, laws governing labor, equal employment opportunity, safety, environmental protection, and prevailing wage rates. Contractor shall be familiar, and at all times observe and comply with, all federal, state, and local laws, ordinances, and regulations that in any manner affect the conduct of the Work. Except where expressly required otherwise by applicable laws and regulations, neither the GLO nor the GDR shall be responsible for monitoring Contractor's compliance with any laws or regulations. Competent evidence of compliance with applicable laws shall be furnished.

2.1.1 Contractor shall cooperate with city or other governmental officials at all times where their jurisdiction applies. Contractor shall make application, pay all fees unless they are specifically noted as being paid or being waived by the GLO, and provide supporting documentation necessary to secure any permits which are required for the performance of the Contract Documents and the Work. Contractor has a continuing obligation throughout the term of the Contract to conduct his operation under duly issued permits and, in the event Contractor loses or has had revoked a necessary permit or if the permit expires, Contractor must take immediate steps to apply for and receive another permit.

2.1.2 Where the Underwriters' Laboratories have established standards and issued labels for a particular group, class, or type of equipment, the Underwriters' label shall be required on all equipment in that category. The International Building Code, National Electric Code, International Mechanical Code, and the International Plumbing Code (latest versions) shall be minimum requirements. Competent evidence of compliance with applicable codes shall be furnished.

2.2 State Sales and Use Taxes.

The GLO qualifies for exemption from State and Local Sales and Use Taxes pursuant to the provisions of Chapter 151, Texas Tax Code. Contractor may claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts.

2.3 Antitrust Claims.

Contractor hereby assigns to the GLO any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 U.S.C.A. Sec. 1 *et seq.*

2.4 Venue for Lawsuits.

The venue for any lawsuit arising from this Project shall be in a court of competent jurisdiction in Travis County, Texas.

2.5 Licensing of Trades.

Contractor shall comply with all applicable provisions of state law related to required licensing of skilled tradesmen, contractors, materialmen, suppliers and or laborers, as necessary to accomplish the Work.

In the event Contractor or any Subcontractor loses its license for any reason during the term of performance of the Contract, Contractor shall promptly hire or contract with a licensed provider of the service at no additional cost to the GLO.

2.6 Patents and Copyrights.

Contractor shall be responsible at all times for compliance with applicable patents or copyrights encompassing, in whole or in part, any design, device, material, or process utilized, directly or indirectly, in the performance of the Work.

Regardless of whether the GLO has specified the use of a particular design, device, material, or process, Contractor shall pay all applicable royalties and license fees and shall provide, prior to commencement of the Work hereunder and at all times during the performance of same, for the lawful use of any design, device, material, or process covered by letters patent or copyright by suitable legal agreement with patentee, copyright holder, or their duly authorized representative.

2.7 Environmental Regulations.

At all times, Contractor shall conduct its activities in compliance with applicable laws and regulations and other requirements of the Contract relating to the environment and its protection. The GLO and Contractor are jointly responsible for obtaining and maintaining permits related to storm water run-off. Contractor covenants to conduct its operations consistent with storm water run-off permit conditions. Contractor shall be responsible for any hazardous materials brought to the site by Contractor, Subcontractor, Suppliers, or anyone else for whom Contractor is responsible. No hazardous materials shall be incorporated into the Work without prior approval of the GLO.

2.8 Lead and Asbestos.

Contractor is also responsible for performing investigations of lead and asbestos containing materials and any required lead and asbestos abatement. Contractor shall provide the GLO with a copy of a signed waste manifest from a proper disposal institution, in connection with Contractor's disposal of any lead or asbestos.

2.9 Antiquities.

Contractor shall take precaution to avoid disturbing primitive records and antiquities of archaeological, paleontological, or historical significance. No objects of this nature shall be disturbed without written permission of the GLO and the Texas Historical Commission. When such objects are uncovered unexpectedly, Contractor shall stop all Work in close proximity and notify GDR and the Texas Historical Commission of their presence and shall not disturb them until written permission and permit to do so is granted. All primitive rights and antiquities, as defined in chapter 191, Texas Natural Resource Code, discovered on the GLO's property shall remain property of the State of Texas and the Texas Historical Commission. If it is determined by the GLO in consultation with the Texas Historical Commission that exploration or excavation of primitive records or antiquities on Project Site is necessary to avoid loss, Contractor shall cooperate in salvage work attendant to preservation. If the Work stoppage or salvage work causes an increase in Contractor's cost of, or time required for, performance of the Work, Contractor may file with GDR a Notice of Claim as described in Article 14, Change Orders.

2.10 Franchise Tax Status.

Contractor agrees to execute and provide to the GLO a Certification of Franchise Tax Payment, on a form provided by the Texas Comptroller of Public Accounts.

2.11 Taxpayer and Vendor Account Information.

Contractor agrees to execute and provide to the GLO a Taxpayer and Vendor Account Information form, as obtained from the Texas Comptroller of Public Accounts, stating that Contractor is in "Good Standing" and not on "Vendor Hold."

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Article 3 – Compliance with Federal and State Laws

3.1 Federal Funding.

Funding for this Contract is appropriated under the Consolidated Appropriations Act, 2016 (Public Law 114-113), enacted on December 18, 2015, and the Consolidated Appropriations Act, 2017 (Public Law 115-31), enacted on May 5, 2017, to facilitate disaster recovery, restoration, economic revitalization, and to affirmatively further fair housing in accordance with Executive Order 12892, in areas affected by the Texas Severe Storms, Tornadoes, Straight-line Winds, and Flooding (DR-4223) and the Texas Severe Winter Storms, Tornadoes, Straight-line Winds, and Flooding (DR-4245); the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act (Public Law 114-223), enacted on September 29, 2016, the Further Continuing and Security Assistance Appropriations Act, 2017 (Public Law 114-254), enacted on December 10, 2016, and the Consolidated Appropriations Act, 2017, (Public Law 115-31), enacted on May 5, 2017, to facilitate disaster recovery, restoration, economic revitalization, and to affirmatively further fair housing in accordance with Executive Order 12892, in areas affected by the Texas Severe Storms, Tornadoes, and Flooding (DR-4266), the Texas Severe Storms and Flooding (DR-4269), and the Texas Severe Storms and Flooding (DR-4272); and the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56), enacted on September 8, 2017, and allocated to the State of Texas under U.S. Department of Housing and Urban Development Grant No. B-17-DM-48-001 to facilitate disaster relief, long term recovery, restoration of infrastructure and housing, economic revitalization, and to affirmatively further fair housing, in accordance with Executive Order 12892, in areas affected by Texas Hurricane Harvey, all of which are Presidentially-declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). Additional funding may be appropriated and/or allocated during the term of this Contract. The fulfillment of this Contract is based on those funds being made available to the GLO as the lead administrative state agency. All expenditures under this Contract must be made in accordance with this Contract, the rules and regulations promulgated under the CDBG-DR Program, and any other applicable laws. Further, Contractor acknowledges that all funds are subject to recapture and repayment for non-compliance.

3.2 Prevailing Wage Schedule.

Based on current Project conditions, the Federal Davis-Bacon Act does not apply to this Contract. However, if conditions change, and if applicable, Contractor shall be subject to some or all of the requirements thereof.

3.3 All Applicable Federal Laws.

Contractor shall be responsible for complying with all federal laws, rules, and regulations pertaining to the CDBG-DR Program contained in the list in Supplemental General Conditions and any that may become applicable throughout the term of the Contract. Contractor acknowledges that this list may not include all such applicable laws, rules, and regulations. **Contractor is deemed to have read and understands the requirements of each law, rule, and regulation, if applicable to the Project under the Contract.**

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Article 4 – Drawings and Specifications

4.1 Ownership of Drawings and Specifications.

All Drawings, Specifications, and copies thereof furnished by the GLO's vendors or contractors are, and shall remain, property of the GLO. They are not to be used on any other project by Contractor and, with the exception of one (1) Contract set, are to be returned to the GLO, upon request, following completion of the Work.

4.2 Copies Furnished.

Contractor will be furnished one complete set of the Contract Drawings and Specifications before on-site Work commences.

4.3 Interrelation of Documents.

The Drawings depict the location and quantity of elements of the Work. The Specifications indicate required minimum material standards. All documents are intended to be complementary to produce the Work.

4.4 Resolution of Conflicts in Documents.

4.4.1 In the event of conflict between or among Drawings and Specifications, the better quality or greatest quantity shall prevail. In the event of conflict among provisions of Specifications, using the CSI format, the specifications in the division of the predominant discipline will govern inconsistent provisions found elsewhere.

4.4.2 In the event of conflict among the drawings, the large-scale drawings prevail over the small-scale drawings.

4.5 Contractor's Duty to Review Contract Documents.

In order to facilitate its responsibilities for completion of the Work in accordance with and as reasonably inferable from the Contract Documents, prior to commencing the Work, Contractor shall examine and compare the Contract Documents; information furnished by the GLO pursuant to §4.7; relevant field measurements made by Contractor; and any visible conditions at the Site(s) affecting the Work. By accepting an assignment of a Project from the GLO or the GDR, Contractor affirms that a Site visit has occurred, all documents have been reviewed, and Contractor has identified all Work which must be completed on the Site and accepts the scope of Work which has been prepared.

4.6 Discrepancies and Omissions in Drawings and Specifications.

4.6.1 If, in the course of the performance of the obligations in §4.5, Contractor discovers any errors, omissions or inconsistencies in the Contract Documents, Contractor shall promptly report them to the GLO and and/or the GDR. It is recognized, however, that Contractor is not acting in the capacity of a licensed design professional, and that Contractor's examination is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions, or inconsistencies or to ascertain compliance with applicable laws, building codes, or regulations.

4.6.2 Contractor has no liability for errors, omissions, or inconsistencies described in §§4.5 and 4.6.1 unless Contractor knowingly failed to report a recognized problem to the GLO. If, however, Contractor fails to perform the examination and reporting obligations of these provisions, Contractor shall be responsible for any avoidable costs or direct damages.

4.6.3 Contractor shall propose the most practical solution to resolve the conflict or omission, requiring the minimum schedule and budget impact and furthering the best interest of the Project. The GLO shall evaluate the proposed solution and provide a response to Contractor. If the solution prompts changes to the Contract Sum or Contract Time, the Contract shall be adjusted under Article 14 by Change Order.

4.6.4 The GLO makes no representations, express or implied, about the adequacy or accuracy of the Drawings, Specifications, or other Contract Documents provided or their suitability for their intended use. The GLO expressly disclaims any implied warranty that the Contract Documents are adequate, accurate, or suitable for their intended use.

4.7 Other Information Provided to Contractor.

The GLO may provide Contractor with information, reports, pictures, or other items which are not contained within the Contract Documents, but which Contractor should review and use pursuant to §4.5.

4.8 Requirements for Record Documents.

Contractor shall maintain at each Site one (1) copy of all Drawings, Specifications, Addenda, approved Shop Drawings and Contract modifications, and all Project correspondence. Contractor shall also maintain on Site at all times physical proof that municipal codes and/or third-party inspections have been passed and accepted by the inspecting authority. Contractor shall maintain Drawings and Specifications in good order and marked to record all changes made during construction. Contractor shall give the GLO or its representatives and agents access to all onsite records at all times.

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Article 5 – Construction Bonds

5.1 Performance and Payment Bonds.

Prior to the assignment of any Work, Contractor is required to tender to the GLO performance and payment bonds.

5.1.1. Performance Bond: A Performance Bond is solely for the protection of the state. Contractor may choose to obtain an individual Performance Bond for the full amount of each Project or a blanket Performance Bond in an amount sufficient to provide coverage for any and all Projects assigned to Contractor at any given time. If Contractor opts to provide a blanket Performance Bond, the GLO shall only assign Work up to the amount of the blanket Performance Bond. Contractor may increase the amount of the blanket Performance Bond if Contractor's performance under the Program warrants the assignment of additional Projects. The form of any Performance Bond shall be provided by the GLO, as may be approved by the Attorney General of Texas.

5.1.2 Payment Bond: A Payment Bond is payable to the state and is solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with Contractor or a supplier of required materials or labor. Contractor may choose to obtain an individual Payment Bond for the full amount of each Project or a "blanket" Payment Bond in an amount sufficient to provide coverage for any and all Projects assigned to Contractor at any given time. If Contractor opts to provide a blanket Payment Bond, the GLO shall only assign Work up to the amount of the blanket Payment Bond. Contractor may increase the amount of the blanket Performance Bond if Contractor's performance under the Program warrants the assignment of additional Projects. The form of the Payment Bond shall be provided by the GLO, as may be approved by the Attorney General of Texas.

5.1.3 Corporate sureties authorized to issue bonds shall comply with relevant provisions of the Texas Insurance Code.

5.1.4 Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to the GLO, on the GLO's form. If any bond is for more than ten percent (10%) of the surety's capital and surplus, the GLO may require certification that the company has reinsured the excess portion with one or more reinsurers authorized, accredited, or trusted to do business in the State. A reinsurer may not reinsure for more than ten percent (10%) of its capital and surplus. If a surety upon a bond loses its authority to do business in the State, Contractor shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to the GLO.

5.1.5 Each bond shall be accompanied by a valid Power-of-Attorney (issued by the surety company and attached, signed and sealed with the corporate embossing seal, to the bond) authorizing the attorney-in-fact who signs the bond to commit the company to the terms of the bond, and stating any limit on the amount for which the attorney can issue a single bond.

5.2 Statutory Compliance.

The process of requiring and accepting bonds and making claims thereunder shall be conducted in compliance with the requirements of Chapter 2253 of the Texas Government Code.

5.3 Additional Copies.

The GLO shall furnish copies of a payment bond and the related Contract to any qualified person seeking copies who complies with the requirements of §2253.026, Texas Government Code.

5.4 Licensed Sureties.

Sureties shall be listed on the Department of Treasury's Listing of Approved Sureties, a catalog of companies holding Certificates of Authority as acceptable sureties on Federal bonds and acceptable reinsuring companies (Department Circular 570).

5.5 Claims on Bonds.

Claims on Payment Bonds must be sent directly to Contractor and his surety in accordance with the requirements of §2253.041, Texas Government Code. All Payment Bond claimants are cautioned that no lien exists on the funds unpaid to Contractor under the respective Contract, and that reliance on notices sent to the GLO may result in the loss of rights against Contractor and/or the surety. The GLO is not responsible in any manner to a claimant for collection of unpaid bills and accepts no such responsibility because of any representation by Contractor or the GLO or their agents or employees.

5.6 Property Liens Strictly Prohibited.

Payment Bond claimants are strictly prohibited from placing liens on any Applicant or Homeowner Property(ies), and Contractor is solely responsible for informing claimants of such strict prohibition.

5.7 Removal of Property Lien Filed.

Contractor is solely responsible for the removal, and any associated expense involved therewith, of any lien placed by a claimant under a Payment Bond on the Property of any Applicant or Homeowner, irrespective of the fault or cause of such attachment.

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Article 6 – Insurance Requirements

6.1 Insurance Requirements.

6.1.1 Contractor shall carry insurance in the types and amounts indicated in this Article for the duration of the Contract, which shall include items owned by the GLO in the care, custody, and control of Contractor prior to, during construction, and during the warranty period. Contractor must also complete and file the declaration pages from the insurance policies with the GLO whenever a previously identified policy period expires during the term of the Contract, as proof of continuing coverage. Acceptance of the insurance policy declaration pages by the GLO shall not relieve or decrease the liability of Contractor. Contractor shall update all expired policies prior to submission for monthly payment. Failure to update policies shall be reason for payment to be withheld until evidence for renewal is provided to the GLO.

ARTICLE 6 CONTINUED ON THE FOLLOWING PAGE

6.1.2 Unless otherwise provided for in Supplementary General Conditions, Contractor shall procure, maintain, and provide the minimum insurance coverage in the minimum amounts described below until the Work covered in the Work Order(s) is completed and accepted by the GLO. Coverage shall be written on an occurrence basis by companies authorized and admitted to conduct business in the State of Texas and rated A- or better by A.M. Best Company, or otherwise acceptable to the GLO.

REQUIRED INSURANCE COVERAGE PER WORK ORDER:

TYPES OF COVERAGE		LIMITS OF LIABILITY
a. Worker’s Compensation		
Statutory		
b. Employer’s Liability		
Bodily Injury by Accident	\$500,000 Ea. Accident	
Bodily Injury by Disease	\$500,000 Ea. Employee	
Bodily Injury by Disease	\$500,000 Policy Limit	
c. Commercial General Liability, including coverage for the following:		
Premises Operations	Combined single limit for bodily injury and property damage of \$1,000,000 per occurrence or its equivalent	
Independent Contractors		
Products/Completed Operations		
Personal Injury		
Contractual Liability		
Explosion, Collapse, Underground		
Broad form property damage, to include fire legal liability		
d. Business Automobile Liability owned/leased, owned, hired		
Combined single limit for Non-Bodily Injury and Property Damage of \$1,000,000 per occurrence or its equivalent.		
e. The GLO’s Protective Liability Insurance Policy, naming the State of Texas and its employees as insured with the following limits:		
Bodily Injury	\$1,000,000 Each Occurrence	
	\$1,000,000 Aggregate	
f. Builder’s Risk Insurance		
Must have an all risk policy, in the amount equal at all times to twenty-five percent (25%) of the total compensation due to Contractor under the Work Order. The policy shall include coverage for loss or damage caused by certified acts of terrorism as defined in the Terrorism Risk Insurance Act. The policy shall be issued in the name of Contractor and shall name his Subcontractors as additional insureds. The GLO shall be named as a loss payee on the policy. The builder’s risk policy shall have endorsements as follows:		
1. This insurance shall be specific as to coverage and not considered as contributing insurance with any permanent insurance maintained on the present premises. If off Site storage is permitted, coverage shall include transit and storage in an amount sufficient to protect property being transported or stored.		
2. For renovation Projects and or portions of Work contained within an existing structure, the GLO waives subrogation for damage by fire to existing building structure(s), if the builder’s risk policy has been endorsed to include coverage for existing building structure(s) in the amount described in the Special Conditions. However, Contractor shall not be required to obtain such an endorsement unless specifically required by the Special Conditions. In this Contract, the aforementioned waiver of subrogation shall not be effective unless such endorsement is obtained.		
g. Flood insurance when specified in Supplementary General Conditions or Special Conditions.		
h. Umbrella coverage when specified in Supplementary General Conditions or Special Conditions.		

THE ABOVE INSURANCE REQUIREMENTS ARE NOT INTENDED TO BE COMPOUNDED WITH CONTRACTOR'S STANDING INSURANCE POLICIES. IF CONTRACTOR ALREADY HAS IN FORCE INSURANCE POLICIES WHICH PROVIDE THE REQUIRED COVERAGE, THERE IS NO NEED TO PURCHASE DUPLICATE COVERAGE FOR THIS PROJECT.

HOWEVER, THE GLO SHALL BE NAMED AS AN ADDITIONAL INSURED, AND THE GLO CONTRACT NUMBER SHALL BE REFERENCED IN THE COMMENTS SECTION OF THE CERTIFICATE(S).

6.1.3 Policies must include the following clauses, as applicable:

6.1.3.1 “This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days’ prior written notice, or ten (10) days for non-payment of premium, has been given to the GLO.”

6.1.3.2 “It is agreed that Contractor’s insurance shall be deemed primary with respect to any insurance or self-insurance carried by the GLO for liability arising out of operations under the Contract with the GLO.”

6.1.3.3 “The GLO, its officials, directors, employees, representatives, and volunteers are added as additional insured as respects operations and activities of, or on behalf of, the named insured and performed under contract with the GLO.” **This is not applicable to the workers’ compensation policy.**

6.1.3.4 “The workers’ compensation and employers’ liability policy will provide a waiver of subrogation in favor of the GLO.”

6.1.4 Workers’ Compensation Insurance Coverage.

6.1.4.1 Definitions.

“[Certificate of coverage](#)” or “[certificate](#)” means a copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance Division of Workers’ Compensation, or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers’ compensation insurance coverage for the person’s or entity’s employees providing services on a Project, for the duration of the Project.

“[Duration of the Project](#)” includes the time from the beginning of the Work on a Project until the Contractor’s/person’s Work on the Project has been completed and accepted by the governmental entity.

“[Coverage](#)” means workers’ compensation insurance meeting the statutory requirements of the Texas Labor Code, §401.011(44).

“[Persons providing services on the Project](#)” or “[subcontractor](#)” includes all persons or entities performing all or part of the services Contractor has undertaken to perform on a Project, regardless of whether that person contracted directly with Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, Subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnished persons to provide services on the Project. “Services” include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a Project. “Services” does not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

6.1.4.2 Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of Contractor providing services on any Project, for the duration of the Project.

6.1.4.3 Contractor must provide a certificate of coverage to the GLO prior to being awarded the contract.

6.1.4.4 If the coverage period shown on Contractor’s current certificate of coverage ends during the duration of the Project, Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

6.1.4.5 Contractor shall obtain from each person providing services on a Project, and provide to the GLO:

- (a) a certificate of coverage, prior to that person beginning Work on the Project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
- (b) no later than seven (7) days after receipt by Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

6.1.4.6 Contractor shall retain all required certificates of coverage in accordance with Section 4.02 of the Contract.

6.1.4.7 Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on a Project.

6.1.4.8 Contractor shall post on each Project Site a notice, in the text, form and manner prescribed by the Texas Department of Insurance Division of Workers' Compensation, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

6.1.4.9 Contractor shall contractually require each person with whom it contracts to provide services on a Project to:

- (a) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the Project, for the duration of the Project;
- (b) provide to Contractor, prior to that person beginning Work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project, for the duration of the Project;
- (c) provide Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
- (d) obtain from each other person with whom it contracts, and provide to Contractor:
 - i) a certificate of coverage, prior to the other person beginning Work on the Project; and
 - ii) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
- (e) retain all required certificates of coverage on file for the duration of the Project and for one (1) year thereafter;
- (f) notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and
- (g) contractually require that each person with whom it contracts, to perform as required by paragraphs (i)-(vii), with the certificates of coverage to be provided to the person for whom they are providing services.

6.1.4.10 By signing this Contract or providing or causing to be provided a certificate of coverage, Contractor is representing to the governmental entity that all employees of Contractor who will provide services on the Project(s) will be covered by workers' compensation coverage for the duration of the Project(s), that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

6.1.4.11 Contractor's failure to comply with any of these provisions is a breach of Contract by Contractor which entitles the governmental entity to declare the Contract void if Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the governmental entity.

6.1.5 If insurance policies are not written for the amounts specified in §6.1.2, Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of primary coverage.

6.2 Modifications.

The furnishing of the above listed insurance coverage, as may be modified by Supplemental General Conditions or Special Conditions, must be tendered to the GLO prior to the assignment of any Work. Failure to provide the insurance in a timely fashion may result in loss of Contractor's bid bond.

6.3 Copies.

The GLO shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements as they apply to the limits set out in §6.1.2.

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Article 7 – General Responsibilities of the GLO and Contractor

7.1 The GLO's General Responsibilities.

7.1.1 Generally. The GLO is the entity identified as such in the Contract and is referred to throughout the Contract Documents as if singular in number.

7.1.2 Preconstruction Conference. Prior to, or concurrent with, the issuance of Notice to Proceed, a conference will be held attended by the GLO, Contractor, and Subcontractors, as appropriate, to establish a working understanding among the parties as to the Work, the operational conditions at the Project Site(s), and general administration of the Project(s), including communications, schedules, procedures for handling Shop Drawings, and other submittals, processing the Contractor Request for Payment form, maintaining required records, and all other matters of importance to the administration of the Project(s) and effective communications on Site(s).

7.1.3 The GLO's Designated Representative. Prior to the start of construction, the GLO shall designate the GLO's Designated Representative ("GDR"), who shall have express authority to act and bind the GLO to the extent and for the purposes described in the various Articles of the Contract, including responsibilities for general administration of the Contract. Unless otherwise specifically provided for, GDR is the single point of contact between the GLO and Contractor. Notice to GDR, unless otherwise noted, constitutes notice to the GLO under the Contract.

7.1.4 The GLO's Requirements. The GLO shall furnish all surveys describing the physical characteristics, legal description and limitations, Site utility locations, and other information under the GLO's control to Contractor. Necessary actions of the GLO, including processing of payments to Contractor, shall be accomplished with reasonable promptness and subject to Article 13 hereof. The GLO shall pay for all routine testing of materials agreed by the GLO to be required by the Contract Documents, except when for retesting of materials failing the initial test is required, in which instance the cost of re-inspection will be paid for by Contractor; provided, however, any special testing which is specifically required in the scope of Work and listed in a technical section of the Specifications shall be paid by Contractor.

7.1.5 GLO-supplied materials and information. Information, equipment, or services under the GLO's control shall be furnished by the GLO to Contractor with reasonable promptness to avoid delay in orderly progress of the Work.

7.1.6 Other Governing Authorities. The foregoing listing is in addition to the specific duties and authority of the GLO and GDR found in other Articles of the Contract.

7.1.7 Availability of Lands. The Contractor-Homeowner Agreement(s) shall confer all required rights to use the lands upon which the Work is to be performed. Required rights-of-way, easements for access thereto, and such other lands that are designated for use by Contractor shall be provided by the GLO to the extent possible, and the GLO shall identify any encumbrances or restrictions specifically related to use of lands so furnished, with which Contractor must comply. Easements for permanent structures or permanent changes in existing facilities will be provided by the GLO unless otherwise provided in the Contractor-Homeowner Agreement(s) or in the Contract Documents. If the GLO fails to furnish rights of way or easements in a timely manner, Contractor shall document such delay and, if critical path activities in the approved construction schedule are materially impacted, Contractor may furnish to the GLO proof of such delay and impact and may request a corresponding extension to the construction schedule, in accordance with Article 14, Change Orders.

7.2 Limitation on the GLO's and GDR's Duties.

The GLO and GDR will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, technologies, sequences, or procedures of construction or the safety precautions and programs incident thereto. The GLO and GDR are not responsible for any failure of Contractor to comply with laws and regulations applicable to furnishing or performing the Work. The GLO and GDR are not responsible for the failure of Contractor to perform or furnish the Work in accordance with the Contract Documents. The GLO and GDR are not responsible for the acts or omissions of Contractor, or of any Subcontractor, any supplier, or of any other person or organization performing or furnishing any of the Work.

7.3 Contractor's General Responsibilities.

7.3.1 Supervision of Work. Contractor is the person or entity identified as such in the Contract and is referred to throughout the Contract Documents as if singular in number. Contractor shall supervise and direct the Work using the best skill and attention to assure that each element of the Work conforms to the Contract requirements. Contractor shall be solely responsible for all construction means, methods, techniques, safety, sequences, and procedures, and for scheduling and coordinating all portions of the Work under the Contract. Contractor shall be responsible to see that the completed Work complies accurately with the Contract Documents.

7.3.2 Federal Registration. All participants in the CDBG-DR grant program must have a data universal numbering system ("DUNS") number, as well as a Commercial And Government Entity ("CAGE") Code.

7.3.3 Reporting Federal Registration. The DUNS number and CAGE Code must be reported to the GLO for use in various grant reporting documents, and may be obtained by visiting the Central Contractor Registration web site at:

for DUNS: <http://fedgov.dnb.com/webform>;
and for CAGE, register in the SAM at <https://www.sam.gov/>
Assistance with this web site may be obtained by calling **877-252-2700**.

7.3.4 Assignment of Project. As part of this Contract, based on factors determined by GDR, Contractor will be assigned a Project, under a Work Order, for completion per the agreed costs. With assistance from the CDBG-DR Case Manager/Mobility Counselor, an informational Pre-Construction Conference between Contractor and Homeowner will be conducted, during which meeting Contractor and Homeowner will execute a Contractor-Homeowner Agreement and a Pre-Construction Conference Report and Notice to Proceed (GLO Form 11.02) for the Project. The forms will be provided by the GLO either on its website at <http://recovery.texas.gov/resources/housing/index.html> or as an attachment to the Contract. When the Contractor-Homeowner Agreement and Form 11.02 are fully executed, the Project will be fully authorized under the relevant Work Order and will be subject to both this Contract, the Contractor-Homeowner Agreement, and the Form 11.02.

7.3.5 Due Diligence Responsibility. All investigation into ownership of the Property is Contractor's responsibility. Contractor is solely responsible for verifying that Homeowner's residence, once complete and affixed to the Property, does not violate or interfere with any applicable recorded instrument or governmental regulation affecting the Property. The GLO has not obtained an abstract of title, title insurance policy, title commitment, or similar item, and the GLO makes no representations or warranties as to title to, or encumbrances upon, the Property.

7.3.6 Information. Contractor is responsible for providing open channels of communication among Homeowner, the GLO, GDR, and Inspectors including, but not limited to, informing Homeowner of what to expect during the construction phase.

7.3.7 Rental Assistance. Contractor is responsible for providing rental assistance to Homeowner if construction is not completed within one hundred twenty (120) days of the Notice to Proceed, regardless of the cause of the delay, according to §23.2.

7.3.8 Utilities. Contractor shall be responsible for notifying Homeowner when to disconnect and reconnect utilities and for any fees related thereto. Contractor is also responsible for reimbursing Homeowner for utility costs incurred while rehabilitation or repair work is performed.

7.3.9 Project Administration. Contractor shall provide Project administration in accordance with provisions outlined in the Pre-Construction Conference.

7.3.10 Contractor's Superintendent. Contractor shall employ a competent resident superintendent who shall be in attendance at the Project Site during the progress of the Work and must be present at all scheduled Site visits performed by the GLO or the GDR and any other inspection. The superintendent shall be satisfactory to the GLO and shall not be changed except with the written approval of the GLO. The superintendent shall represent Contractor at the Site and shall have full authority to act on behalf of Contractor including, but not limited to, signature authority for progress payments and Change Orders. All communications given to the superintendent shall be binding on Contractor. All oral

communications affecting Contract Time, Project Sum, and interpretation of the Contract Documents will be confirmed in writing to the GLO.

7.3.11 Labor. Contractor shall provide competent, suitably qualified personnel to survey, lay out, and construct the Work as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site(s).

7.3.12 Services, Materials, and Equipment. Unless otherwise specified in the Supplemental General Conditions, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work. Contractor shall provide, without extra charge, all incidental items required as a part of the Work, even though not particularly specified or indicated in the Contract.

7.3.13 No Substitutions Without Approval. Contractor may make substitutions only with the consent of the GLO, within thirty (30) days from the Notice to Proceed, and after evaluation and recommendation by the GLO and in accordance with a Change Order. If Contractor has good reason for objecting to the use of a material, appliance, or method of construction as shown or specified, it shall register its objections with the GLO in writing; otherwise, it shall proceed with the Work with the understanding that a satisfactory job is required.

7.3.14 Documents and Samples at the Site. Contractor shall maintain at the Site(s) for the GLO one (1) record copy of the Drawings, Specifications, addenda, Change Orders, and other modifications, in good order and marked currently to record field changes and selections made during construction; and one (1) record copy of approved Shop Drawings, Samples, and similar required submittals. These shall be available to the GLO and shall be delivered to GDR for submittal to the GLO upon completion of the Work. Contractor shall also maintain on Site at all times physical proof that municipal codes and/or third-party inspections have been passed and accepted by the inspecting authority.

7.3.15 Non-Compliance. If any Work is identified by either the GLO and/or GDR as not being in compliance with HUD Program requirements or the Contract Documents, GDR shall communicate the finding to Contractor and the GLO and such Work shall be corrected by Contractor at its expense. Contractor is not relieved from compliance with all requirements of the Contract Documents where such requirements are not judged at the time of observation of the Work due to Work sequences by Contractor or the lack of time to judge the performance characteristics of the particular Work item.

7.3.16 Subcontractors. Contractor shall not employ any Subcontractor, supplier or other person or organization, whether initially or as a substitute, against whom the GLO may have reasonable objection. The GLO will communicate such objections in writing. If a rejection causes a change to the Contract Sum, Contractor may file a Contractor-initiated claim under Article 14, Change Orders. Contractor shall not be required to employ any Subcontractor, supplier, or other person or organization to furnish any of the Work to whom Contractor has reasonable objection. Contractor will not substitute Subcontractors without the approval of the GLO.

7.3.16.1 Contractor shall enter into written agreements with all Subcontractors and suppliers which specifically bind Subcontractors and suppliers to the terms and conditions of the Contract Documents for the benefit of the GLO.

7.3.16.2 Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, suppliers, and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor. Contractor shall require all Subcontractors, suppliers, and such other persons and organizations performing or furnishing any of the Work to communicate with the GLO through Contractor.

7.3.17 Continuing the Work. Unless otherwise directed by the GLO in writing, Contractor shall carry on the Work and adhere to the Project schedule during all disputes, disagreements, or alternative resolution processes with the GLO. No Work shall be delayed or postponed pending resolution of any disputes, disagreements, or processes, except as directed by the GLO in writing.

7.3.18 Acts and Omissions of Contractor, Subcontractors and employees. Contractor shall be responsible for acts and omissions of its employees and its Subcontractors, their agents and employees. The GLO may, in writing, require

Contractor to remove from the Work any of its or its Subcontractors' employees that the GLO and/or GDR finds to be careless, incompetent, or otherwise objectionable.

7.3.19 INDEMNIFICATION OF THE GLO. CONTRACTOR COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, THE GLO AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS, AND REPRESENTATIVES OF THE GLO, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON THE GLO DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT, INCLUDING ANY ACTS OR OMISSIONS OF CONTRACTOR, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF CONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OF PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF THE GLO, OFFICERS OR EMPLOYEES, SEPARATE CONTRACTORS OR ASSIGNED CONTRACTORS, IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE. IN THE EVENT CONTRACTOR AND THE GLO ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

7.3.19.1 THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

7.3.19.2 CONTRACTOR SHALL PROMPTLY ADVISE THE GLO IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE GLO OR CONTRACTOR KNOWN TO CONTRACTOR RELATED TO, OR ARISING OUT OF, CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT.

7.3.19.3 THE GLO RESERVES THE RIGHT TO PROVIDE ITS OWN DEFENSE TO ANY SUIT OR CLAIM OF INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE OR SERVICE MARK, OR ANY OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHT, IN WHICH EVENT CONTRACTOR SHALL INDEMNIFY AND SAVE HARMLESS THE GLO FROM ALL COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND JUDGMENTS, ARISING FROM SUCH DEFENSE.

7.3.20. Site Conditions. Contractor will operate and maintain operations areas and associated storage areas at each Site of the Work in accordance with the following:

7.3.20.1 All Contractor operations, including storage of materials and employee parking upon the Work Site, shall be confined to areas designated or agreed to by the GLO.

7.3.20.2 Contractor shall at all times keep construction areas, including storage areas used by it, free from the accumulation of water, waste materials, or rubbish during performance of the Work. During the period of construction, and not less frequently than once a week, Contractor shall remove from the Site any and all waste materials, rubbish, and trash, and shall dispose of such waste materials, rubbish, and trash off the property of the GLO. Prior to Contractor's requested date for a Final Inspection, Contractor shall remove any and all remaining equipment from the Site and shall leave the premises in a clean, neat, and workmanlike condition satisfactory to the GLO.

7.3.20.3 Contractor will use only established roadways or construct and use such temporary roadways as may be authorized by the GLO. Load limits of vehicles shall not exceed the limits prescribed by appropriate regulations of law. Contractor will provide protection to road surfaces, curbs, sidewalks, trees, shrubbery, sprinkler systems, drainage structures and other like existing improvements to prevent damage, and any damage thereto shall be repaired by and at the expense of Contractor. The GLO may restrict Contractor's entry to the Site to specifically assigned entrances and routes.

7.3.20.4 Contractor may erect temporary buildings at its expense, which shall remain its property. Contractor shall remove such buildings and associated utilities service lines upon completion of the Work, unless Contractor requests to abandon such buildings and utilities in place, and the GLO provides written consent.

7.3.21 Royalties and Patents. Contractor shall pay all royalties and license fees and defend all suits or claims for infringement of any patent rights and shall hold the GLO and its representatives harmless from loss on account thereof.

7.3.22 Other Governing Authorities. The duties listed above are in addition to the duties, responsibilities, and activities to be undertaken by Contractor as specified throughout the Articles of the Contract.

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Article 8 – Additional Contractor Responsibilities when the GLO Awards Separate Contracts

8.1 Separate Contracts.

The GLO reserves the right to award other contracts in connection with other portions of the Project(s) under these or similar contract conditions. The GLO reserves the right to perform operations related to the Project(s) with the GLO's own forces. Each separate contractor shall undertake to indemnify the GLO as set forth in §§7.5.12 and 7.5.19.

8.1.1 Generally. When separate contracts are awarded for different portions of the Project(s), "Contractor" in the Contract Documents in each case shall be the Contractor who signs each separate Contract. Contractor shall cooperate with the separate contractors and the GLO's own forces. Contractor shall properly connect and coordinate its Work with the work of the separate contractors as defined in these Contract Documents. If any part of Contractor's Work depends for proper execution or proper results on the work of any of the separate contractors, Contractor shall inspect and promptly report in writing to GDR any visually apparent discrepancies or defects found in such other work that render it unsuitable for such proper execution and results. Failure of Contractor to so inspect and report the visually apparent discrepancies or defects shall constitute an acceptance of the separate contractor's work as fit and proper to receive Contractor's Work, except as to defects which may develop in the separate contractor's work after the execution of Contractor's Work.

8.1.2 Delay or Damage. Should Contractor cause delay or damage to the Work or property of any separate contractor on a Project, Contractor shall, upon due written notice, endeavor to settle with the separate contractor by agreement. If such separate contractor does not settle with Contractor, the GLO shall initiate a Dispute Resolution process and each party to the dispute shall be financially accountable for any damages or loss based on their proportionate fault determined by the Dispute Resolution process.

8.1.3 Access. Contractor shall afford the GLO, the separate contractors, and the GLO's own forces, as necessary, reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work.

8.1.4 The GLO's Rights. The GLO reserves the right to make essential installations that are pertinent to the early use of a building or Project. Within this right, the GLO may let other contractors make the installations or may do such work with its own labor forces and materials. Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or supplier, or by the GLO's employees. Contractor shall cooperate to the end that the GLO may realize complete functioning of the building or Project on the day of Final Completion.

8.2 Coordination.

The GLO shall provide for coordination of the activities of the GLO's own forces and of each separate contractor with the Work of Contractor, who shall cooperate with them. Contractor shall participate with other separate contractors and the GLO in reviewing the respective construction schedules, when directed to do so. Contractor shall make any revisions to his construction schedule as necessary, after receiving the GLO's instruction.

8.3 Liability.

The GLO shall be reimbursed by Contractor for costs incurred by the GLO which are payable to a separate contractor because of delays, improperly timed activities, or defective construction by Contractor. The GLO shall be responsible to Contractor for costs incurred by Contractor because of delays, improperly timed activities, damage to the Work, or defective construction by a separate contractor. Contractor may make claim for such amounts as outlined in Article 14, Change Orders.

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Article 9 – Contractor Responsibility for Jobsite Safety

9.1 Generally.

Unless otherwise specified in the Specifications, Contract Documents, or Supplementary General Conditions, Contractor shall be responsible for initiating, maintaining, supervising, and enforcing all safety precautions and programs in connection with the Work. It shall be the duty and responsibility of Contractor and all of its Subcontractors to be familiar and comply with all requirements of the Occupational Safety and Health Act of 1970 (OSHA), Public Law 91-596, 29 U.S.C. §§ 651 et. seq., and all amendments thereto, and to enforce and comply with all of the provisions of the Act. Contractor shall comply with all applicable laws and regulations of any public body having jurisdiction for safety of persons or property to protect them from damage, injury, or loss and shall erect and maintain all necessary safeguards for such safety and protection.

9.1.1 Notification. Contractor shall notify owners of adjacent property and of underground facilities, and utility owners when prosecution of the Work may affect them or their facilities, and shall cooperate with them in the protection, removal, relocation, and replacement of their facilities and/or utilities.

9.2 Emergency.

In any emergency affecting the safety of persons or property, Contractor shall act reasonably to prevent threatened damage, injury, or loss. Contractor shall give GDR and the GLO prompt notice if Contractor believes that any significant changes in the Work or variations from Contract Documents have been caused by its emergency response. Any additional compensation or extension of time claimed by Contractor resulting from emergency Work shall be considered in accordance with Article 14, Change Orders.

9.2.1 Required Response. Authorized agents of Contractor shall respond immediately to call out at any time of day or night when circumstances warrant the presence of Contractor to protect the Work or adjacent property from damage, restriction, or limitation, or to take such action pertaining to the Work as may be necessary to provide for the safety of the public. Should Contractor fail to respond, the GLO is authorized to direct other forces to take action as necessary and the GLO may deduct any cost of remedial action from the funds due Contractor under the Contract.

9.3 GDR Notification.

In the event of an incident or accident involving outside medical care or a lost time injury to an individual on or near the Work, Contractor shall notify GDR as soon as possible within twenty-four (24) hours of the event. Contractor shall record the location of the event and the circumstances surrounding the event, by using photography or other means, and shall gather witness statements and other documentation that describes the event. Contractor shall supply GDR and the GLO with a set of incident investigation documents no later than thirty-six (36) hours after the occurrence of the event. In the event of a catastrophic incident, defined as one (1) fatality or three (3) workers hospitalized, the scene of the incident shall be barricaded and left intact until all investigations are completed.

9.4 Environmental Safety and Control.

Upon encountering any previously unknown potentially hazardous material, or other materials potentially contaminated by hazardous material, Contractor shall immediately stop Work in and secure the affected area and notify GDR. All subcontracts shall expressly bind Subcontractors to the same duty. On receiving such notice, GDR shall promptly engage qualified experts to make such investigations and conduct such tests as may be reasonably necessary to determine the existence or extent of any environmental hazard. As soon as possible upon completion of this investigation, GDR shall issue a written report to Contractor identifying the material or materials found and indicating any necessary steps to be taken to treat, handle, transport, or dispose of the material. The GLO may hire third-party contractors to perform any or all such steps. Should compliance with GDR's instructions result in an increase in Contractor's cost of performance, or delay the Work, an adjustment in the Contract Sum or time may be claimed by Contractor pursuant to the provisions of Article 14, Change Orders.

9.4.1 Notification. Contractor shall be responsible for coordinating the exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the site in connection with laws and regulations.

9.5 Trenching Safety.

Trenching safety precautions, applicable only if a Project requires excavation that exceeds a depth of five (5) feet, shall comply with the following:

9.5.1 Trenching Plan. Contractor will submit a trenching plan to the GLO within fifteen (15) days, if required. The plan will be approved and sealed by a professional engineer registered in the State of Texas and employed by Contractor. Said engineer cannot be anyone who is employed on a Project by the GLO.

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Article 10– Materials and Workmanship; Licensing, and Testing

10.1 Materials and Workmanship.

Contractor warrants and guarantees that all Work shall be executed in a good workmanlike matter in accordance with the Contract Documents, complete in all parts and in accordance with approved practices and customs. Unless otherwise specified, all materials and equipment incorporated into the Work under Contract shall be new.

10.2 Contractor’s Warranty of Workmanship.

10.2.1 Limits on Warranty. Contractor’s Warranty and guarantee hereunder excludes defects or damage caused by:

- a. Abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, suppliers, or any other individual or entity for whom Contractor is responsible, or
- b. Normal wear and tear under normal usage.

10.2.2 Events Not Affecting Warranty. Contractor’s obligation to perform and complete the Work in a good and workmanlike manner in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor’s obligation to perform the Work in accordance with the Contract Documents:

- a. Observations by the GLO;
- b. Recommendations to pay any progress or final payment;
- c. The issuance of a certificate of Final Completion or any payment by the GLO to Contractor under the Contract Documents;
- d. Use or occupancy of the Work or any part thereof by the GLO;
- e. Any acceptance by the GLO or any failure to do so;
- f. Any review of a Shop Drawing or sample submittal; or
- g. Any inspection, test, or approval by others.

10.3 Routine Testing.

If the Contract Documents, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any Work to be inspected, tested, or approved, Contractor shall give the GLO timely notice of its readiness and of the date arranged so the GLO or the GDR may observe such inspection, testing, or approval. Should the material or Work fail to comply with the requirements of the Contract Documents, Contractor shall bear all costs of the testing, inspection, or approval, as well as the cost of replacement of unsatisfactory material or Work as provided by Article 12; otherwise, the GLO shall bear such costs and an appropriate Change Order shall be issued, per Article 14.

10.3.1 Responsibility. The costs of routine testing shall be borne by the GLO, but Contractor shall be responsible for the cost of material tested. When directed by the GLO, demonstration of a material’s compliance with the specifications shall be made by one of the following:

- a. Manufacturer’s certificate of compliance;
- b. Mill certificate;
- c. Testing laboratory certification; or
- d. Report of actual laboratory test from the GLO’s laboratory or from a laboratory satisfactory to the GLO. Samples tested shall be selected by or in the presence of the GLO and the method of testing shall comply with the professional societies’ standard specifications.

10.3.2 Necessity. Materials incorporated into the Project(s) may be subject to routine tests as specified or as deemed necessary by GDR the GLO to ensure their compliance with the specifications. Materials to be tested may include, but are not limited to, the following:

- a. Concrete – Primary mix design, slump tests and cylinder compression tests.
- b. Steel – Tensile tests.
- c. Welds – Field inspection and X-ray equipment.
- d. Soils – Subsoil investigation, physical analysis, and compaction tests.
- e. Pavement – Physical analysis and compaction tests.
- f. Roofing – Samples cut from in-place roof.

Any other basic materials for which standard laboratory test procedures have been established may also be included if doubt as to their quality should arise. Any testing, as described, will be done at the discretion of the GLO who will bear all costs. Contractor shall be held responsible for providing samples of sufficient size for test purposes and for cooperating with the GLO or designee in obtaining and preparing samples for tests. All tests will be in accordance with standard test procedures and will be performed by a laboratory selected by the GLO. Results of all tests will be provided to the GLO and Contractor.

10.3.2.1 Not included in tests provided by the GLO are:

- a. Any test of basic material or fabricated equipment offered as a substitute for a specified item on which a test may be required in order to prove its compliance with the Specifications, which testing shall be paid for by Contractor.
- b. Routine or preliminary tests on mechanical systems required to ensure their proper installation and operation, prior to final testing and balancing, and any other requirements described in other Contract Documents or specifications shall be paid for by Contractor. Final testing and balancing shall be paid for by Contractor and be performed by an independent, certified testing and balancing firm approved by the GLO.
- c. Testing required to certify the acceptability of repairs to damaged materials or equipment shall be paid for by Contractor.

10.3.3 Compliance. Should any of the routine tests indicate that a material does not comply with the job requirements, the burden of proof of compliance shall be with Contractor, subject to the following conditions:

- a. Contractor may select the laboratory for further testing, but selection must be approved by the GLO;
- b. Quality and nature of tests will be determined by the GLO;
- c. All tests shall be taken in the presence of the GLO or GDR;
- d. If tests prove that the material complies with specifications, the laboratory fees will be paid by the GLO. If noncompliance is proved, laboratory fees will be paid by Contractor; and
- e. Proof of noncompliance will make Contractor liable for any corrective action which the GLO feels is prudent, including complete removal and replacement of defective material.

10.3.3.1 All subsequent tests on original or replaced materials conducted as a result of prior failure will be paid by Contractor.

10.3.4 Special Testing. The GLO may require special inspection, testing, or approval of material or Work in addition to that which may be specified for compliance with requirements of the Contract Documents. Upon direction by the GLO for additional special testing, Contractor shall promptly arrange for such special testing, inspection or approval procedure. The costs of special testing shall be at the GLO's expense except, if the materials fail, Contractor shall pay the expense; provided however, that the entire cost of any additional testing, whether routine or special, required because of failure of a prior test shall be borne by Contractor.

10.4 Opportunity to Review.

If any Work (or the Work of others) that is to be inspected, tested, or approved is covered by Contractor without providing the GLO, GDR, or Inspector an opportunity to review based on written notification as set forth in §12.2.3 or if any Work is covered contrary to the written request of the GLO or GDR or as specifically indicated elsewhere in the Contract Documents, the covered Work must, if requested by the GLO or GDR, be uncovered and recovered at Contractor's expense, except as set forth in §12.3.2.4.

10.5 Contractor's Testing.

Nothing contained herein is intended to imply that Contractor does not have the right to have tests performed on any material at any time for his own information and job control so long as the GLO is not charged for costs or forced to rely upon such tests when appraising quality of materials. Any modification of, or elaboration on, these test procedures which may be included for specific materials under their respective specification sections shall take precedence over these procedures and all testing required in the technical specification sections shall be the responsibility of Contractor to coordinate and pay for.

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Article 11 – Shop Drawings and Submittals

11.1 Intent of Contract Documents.

It is not the intent of the Specifications or Contract Documents to limit materials, equipment, or fixtures to the product of any particular manufacturer. Where definite materials, equipment, and/or fixtures have been specified by name, manufacturer or catalog number, it has been done to set a definite standard and a reference for comparison as to quality, application, physical conformity, and other characteristics. It is the GLO's intention to not discriminate against or prevent any dealer, jobber, or manufacturer from furnishing materials, equipment, and/or fixtures which meet or exceed the characteristics of the specified items. If Contractor wishes to substitute any materials, equipment, and/or fixtures which have been specified by name, manufacturer, or catalog number, Contractor must submit a request for substitution in writing to the GLO before utilizing said materials, equipment, and/or fixtures. Substitution of materials, equipment, and/or fixtures shall not be made without prior written approval from the GLO.

The GLO shall be the final judge of whether a proposed substitution meets the required characteristics of a specified item and such decisions of the GLO shall be final and conclusive.

11.2 Unauthorized Substitutions at Contractor's Risk.

All proposed substitution of materials, equipment, or fixtures shall be presented through the submittal process. Contractor shall be financially responsible for any additional costs or delays resulting from using materials, equipment, or fixtures other than those specified or approved by the GLO as a substitute item and shall reimburse the GLO for any increased design or contract administration costs resulting from any unauthorized substitutions.

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Article 12 – Quality Control Reviews, Condemnations, and Required Inspections

12.1 Contractor Quality Control.

Contractor is responsible for controlling the quality of the Work as set forth in the Contract Documents.

12.2 GLO Quality Assurance Reviews.

12.2.1 Site Visits. The GLO, the GDR and/or other GLO agents and consultants will make periodic visits to the Site(s) to familiarize themselves with the progress and quality of the Work and conduct inspections and tests to determine if the Work is proceeding in accordance with the Contract Documents. Contractor shall provide sufficient, safe and proper facilities at all reasonable times for observation and/or inspection of the Work by the authorized representatives of the GLO.

12.2.2 No Cover Up Without Notification. Contractor shall not cover up any Work with finishing materials or other building components prior to providing the GLO an opportunity to perform an inspection of the Work by the GLO, GDR, or an Inspector. If corrections of the Work are required for approval, cover up shall be delayed until another inspection can be made and approval is granted by the Inspector.

12.2.3 Requirement to Notify. Contractor shall be responsible for providing notice of forty-eight (48) hours to the GLO of the anticipated need for a cover up inspection. If the GLO fails to respond to the requested inspection within forty-eight (48) hours, Contractor may proceed with the particular cover up work identified in the notification. This notice requirement shall not be reduced or waived by the GLO's ability to respond in less time.

12.3 Condemnation and Removal of Defective Work.

12.3.1 Inspection of Work. GDR and the GLO have the authority to reject and condemn Work which does not meet the requirements of the Contract and to order such Work removed and replaced in accordance with this §12.3. The approval of a Work item by GDR and/or the GLO does not relieve Contractor from compliance with the Contract Documents where such requirements are not judged at the time of observation of the Work due to Work sequences by Contractor or the lack of time to judge the performance characteristics of the particular Work item, or where the particular Work item is part of a system that has not been fully completed and reviewed for overall operation.

12.3.2 Determination of Acceptability. GDR and/or the GLO shall interpret the Contract requirements and shall be the final judge of the acceptability of the Work under the Contract Documents. If any materials or Work furnished under this Contract are condemned or rejected by the GLO, Contractor shall, after notice from the GLO, proceed to remove materials, whether worked or un-worked, and to take down all portions of the Work condemned. Contractor shall make good all Work damaged or destroyed by the removal and replacement process.

12.3.2.1 Contractor shall, without charge or assessment against any Contract contingency or allowance, replace any material or correct any workmanship found by the GLO or GDR not to conform to the Contract requirements, unless in the public interest the GLO consents in writing to accept such material or workmanship with an appropriate adjustment in the Contract Sum. Contractor shall promptly correct all Work rejected by the GLO or GDR as defective or as failing to conform to the Contract Documents whether observed before or after the Date of Final Completion or final inspection and acceptance; and whether or not fabricated, installed, or completed. Contractor shall bear all costs of correcting such rejected Work. The costs of such corrective Work shall also include reimbursement by Contractor to the GLO of the costs incurred by the GLO for the extra services of required in performing its responsibilities relative to such corrective Work.

12.3.2.2 If Contractor does not promptly complete the Work, replace rejected material, or correct rejected workmanship, the GLO may (1) by separate contract or otherwise, replace such material or correct such workmanship and charge the cost thereof to Contractor, or (2) terminate Contractor's Contract in accordance with Article 20, Termination and Suspension of the Contract Prior to Completion.

12.3.2.3 If any portion of the Work is concealed by subsequent Work without notification to the GLO as set forth in §12.2.3, contrary to the instructions of the GLO or GDR, or to the requirements specifically expressed in the Contract Documents, it must be uncovered for observation and recovered at Contractor's expense.

12.3.2.4 If any other portion of the Work which the GLO or GDR has not specifically requested or is not specifically indicated elsewhere in the Contract Documents to observe prior to being covered, has been covered, either may request to see such Work and it shall be uncovered by Contractor. If such Work is found to be in accordance with the Contract Documents, the cost of uncovering and recovering shall, by appropriate Change Order, be charged to the GLO. If such Work is found not to be in accordance with the Contract Documents, Contractor shall pay such costs for extra services related to such non-complying Work.

12.3.3 Protest of Condemnation. Upon notice of condemnation, Contractor may request to prove to the GLO or the GDR, at Contractor's sole cost, that the Work should be accepted because it meets performance and other relevant standards. Contractor shall have ten (10) working days from receipt of the notice to present documentation to prove compliance. The GLO shall respond to Contractor's showing of proof in writing within fifteen (15) working days of receipt of Contractor's documentation.

12.4 Required Inspections – Purpose.

Inspection by the GLO and/or the GDR is for the purpose of determining the completion of the Work and does not relieve Contractor of its overall responsibility for completing the Work in a good and workmanlike fashion, in compliance with the Contract Documents. Failure of the GLO or GDR to identify Work that is not in compliance with the Contract Documents, or which is defective in operation or workmanship, or acceptance of the Work with Punch List items left incomplete, does not constitute a waiver of such a defect or of the GLO's rights under the Contract Documents or relieve Contractor of its warranties contained in Article 16.

12.4.1 Rehabilitation Progress Inspections. The GLO and/or the GDR will perform Site visits for each Rehabilitation Project at the request of Contractor at pre-determined stages during critical construction activities. These visits will occur after all required municipal code enforcements, and/or third-party inspections have taken place. Contractor will submit a written request via electronic mail for a Site visit to occur no earlier than forty-eight (48) hours from the time of request. Contractor shall have a representative on Site and shall provide documentation of passed code and/or third-party inspections performed. The GLO and/or the GDR will then observe the Work that has been performed to ensure that it is complete and accurate according to the Plans and Specifications. Unless otherwise specified by the GLO, in addition to the Final Inspection, there shall be only one (1) Progress Inspection for rehabilitation Projects, which will take place at the fifty percent (50%) level of construction completion.

12.4.2 Reconstruction and New Construction Progress Inspections. The GLO will perform Site visits for each reconstruction or new construction Project at the request of Contractor periodically during critical construction activities. Site visits will occur at the fifty percent (50%) stage of construction completion. These visits will occur after all required municipal code enforcements, and/or third-party inspections have taken place. Contractor will submit a written request via electronic mail for a Site visit to occur no earlier than forty-eight (48) hours from the time of request. Contractor shall have a representative on Site and shall provide documentation of passed code and/or third-party inspections performed. The GLO and/or the GDR will then observe the Work that has been performed to ensure that it is complete and accurate as per the Plans and Specifications.

12.4.3 Final Inspection. After construction has been completed on a Project, Contractor will request a final Site visit to guarantee that all Work has been satisfactorily completed according to the Contract Documents and appropriate state and local codes and standards, the work has been Green Building Certified, and that the Housing Unit meets minimum housing standards. The final Site visit is to confirm that all Work has been completed and been accepted by building code enforcement and-or third-party inspectors, and includes all items on the punch list, as applicable. Contractor must provide all warranties prior to the Inspector signing a Final Inspection form. In addition, Contractor must provide an executed affidavit stating that each person who performed Work or provided materials for the activity has been paid in full prior to requesting Final Payment. If there are outstanding funds owed to third parties, Contractor must list in the affidavit the amount owed, and the name, address, and phone number of the entity to whom funds are owed, and affirm when payment will occur for each entity listed.

12.4.4 Repeat Inspections. Contractor must have all Work completed and documents ready prior to requesting an inspection. If the GLO and/or the GDR observes any fault(s) during inspection, Contractor will be informed of the fault(s) and be provided a written report of findings. When Contractor has remedied the fault(s), Contractor may request a repeat inspection to be performed, no sooner than forty-eight (48) hours from the time of the request. **Contractor is**

responsible for all costs associated with additional inspections due to previously inspected items which are deemed outstanding or improperly completed, including costs associated with reprocessing for repeat inspections. Furthermore, any additional expenses caused by repeat inspections or repeat reviews, if any, shall be defined by the GLO and communicated to Contractor by memoranda, and must be satisfied by Contractor prior to receiving Final Payment hereunder.

12.4.5 Corrective Actions. If Contractor is notified that any inspection by the GLO and/or the GDR has uncovered any non-compliance issues, Contractor shall correct such issues within seven (7) calendar days. Contractor shall maintain a detailed record of every non-compliance and corrective action taken. Such non-compliance includes documentation of any and all pre-existing damages related or unrelated to the applicable disaster event, and Homeowner must Sign Off such documentation. If Homeowner refuses to Sign Off within fourteen (14) calendar days, Contractor may request an inspection of the completed Work by the GLO and/or the GDR. If the GLO and/or the GDR determines that the corrective action has been completed, the GLO may issue a Sign Off for purposes of this Section.

12.4.6 Inspection by the GLO and Others. The U.S. Department of Housing and Urban Development, the Texas General Land Office, GDR, and any of their designees shall have the right to inspect all Work performed under the Work Order. Contractor and Homeowner(s) will take all steps necessary to assure that the U.S. Government, the GLO, and GDR or any of their designees are permitted to examine and inspect the Work, the Property, and all contracts, material, equipment, payrolls, and conditions of employment pertaining to their Work, including all relevant data and records. By such inspection, the U.S. Government, the GLO, and GDR assume no responsibility to Homeowner(s) for defective material or Work under this Contract, or to either party for any breach of the Contract by the other.

12.5 Follow-up Inspections.

12.5.1 Follow-up Progress Inspections. If, on the basis of the Progress Inspection, GDR or the GLO determines that the Work is not complete, GDR or the GLO shall give Contractor written notice thereof, informing Contractor what Work was found to be incomplete, out of compliance with the Contract Documents, or defective in operation or workmanship, and setting a time by which incomplete or defective Work is to be completed. Contractor shall complete or correct all Work so designated and shall request a follow-up Progress Inspection, no sooner than forty-eight (48) hours from completion of the additional Work.

12.5.2 Follow-up Final Inspections. If, on the basis of the Final Inspection, GDR or the GLO determines that the Work is not complete according to the Contract Documents, or that the Work required by the Punch List has not been performed, GDR or the GLO shall give Contractor written notice thereof, informing Contractor what Work was found to be incomplete, out of compliance with the Contract Documents, or defective in operation or workmanship, and setting a time by which incomplete or defective Work is to be completed. Contractor shall complete or correct all Work so designated and shall request a follow-up Final Inspection, no sooner than forty-eight (48) hours from completion of the additional Work.

12.5.3 Financial Liability for Follow-up Inspections. The cost of any and all follow-up inspections deemed necessary by GDR or the GLO because the Work was not ready or completed satisfactorily for one or more required inspections shall be borne by Contractor, and payable according to §12.4.4, Repeat Inspections. The GLO reserves the right to deduct any unpaid follow-up inspection fees from Contractor's next requested payment. Work added to the Contract by Change Order after Final Inspection shall not be considered as corrective Work for purposes of determining timely completion or assessing the cost of additional inspections.

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Article 13 – Interim Contract Payments, State Funding, Recapture, Overpayment

13.1 Interim (or Periodic) Contract Payments.

13.1.1 Requesting Payment. Contractor may obtain reimbursement under a Work Order for Work properly performed on a Project by submitting a Building Contractor's Request for Payment, GLO Form 11.04, along with all required supporting documentation, as shown in §13.2.1 below. Form 11.04 will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>.

13.1.2 New Construction and Reconstruction Payment Schedule. The GLO agrees to authorize payment to Contractor in accordance with the following schedule:

- a. Payment for fifty percent (50%) of the Project Sum - with fifty percent (50%) of the Work having been completed and satisfactory Progress Inspection by the GLO, GDR or other GLO-authorized Inspector.
- b. Payment for forty percent (40%) of the Project Sum - upon completion of the Work, and satisfactory Final Inspection by the GLO, the GDR, or other GLO authorized Inspector, including all Punch List items.
- c. Payment for the final ten percent (10%) of the Project Sum, discussed in §13.1.4, Retainage, may be made upon completion of the Work, and satisfactory Final Inspection by the GLO, GDR, or other GLO-authorized Inspector, including all Punch List items. **Final Payment is discussed in more detail in Article 15.**

13.1.3 Rehabilitation Payment Schedule. The GLO agrees to authorize payment to Contractor in accordance with the following schedule:

- d. Payment for fifty percent (50%) of the Project Sum - with fifty percent (50%) of the Work having been completed and satisfactory Progress Inspection by the GLO, the GDR, or other GLO-authorized Inspector.
- e. Payment for forty percent (40%) of the Project Sum - upon completion of the Work, and satisfactory Final Inspection by the GLO, the GDR, or other GLO-authorized Inspector, including all Punch List items.
- f. Payment for the final ten percent (10%) of the Project Sum, discussed in §13.1.4, Retainage, may be made upon completion of the Work, and satisfactory Final Inspection by the GLO, the GDR, or other GLO-authorized Inspector, including all Punch List items. **Final Payment is discussed in more detail in Article 15.**

13.1.4 Retainage. The GLO shall withhold as retainage ten percent (10%) of the Project Sum. Upon satisfaction of all aspects of the Project requirements, Contractor may seek reimbursement of any amounts retained, and any other amounts that may be recoverable under the terms of the Contract. Contractor's request for payment of amounts retained must include, as a minimum, the following documentation:

- a. Building Contractor's Request for Payment (GLO Form 11.04), signed by Contractor and Homeowner;
- b. Contractor's invoice with itemization of costs;
- c. Signed and notarized Lien Waiver Affidavit (GLO Form 11.24) and Exhibit A;
- d. Final Inspection Checklist (GLO Form 11.03), complete with appropriate signatures in Sections I, II and III;
- e. Insurance Declaration Page(s) covering the subject property, if applicable; and
- f. TREC inspection report.

The supporting documentation and additional documents in this section are required with all retainage-related Contractor requests for payment. All referenced numbered forms will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>. Required documentation may change from time to time; **it is the sole responsibility of Contractor to be aware of and obtain information related to any additional requirements for supporting documentation.**

13.2 Documentation Required – Progress Payments.

Progress Payments will be made to Contractor for Work performed and materials in place or suitably stored and protected on Sites, or as otherwise agreed to by the GLO and Contractor, in accordance with CDBG-DR Program rules as defined by the GLO, and according to the schedule in §13.2.1, below.

13.2.1 Documentation. A Progress Payment shall not become due until receipt by GDR or designee of a correct and complete Building Contractor's Request for Payment, certified by the GDR pursuant to this Article, and the additional documentation listed in §13.2.1, **a** through **d**, below. If errors or omissions are found during the review of the Contractor's request for payment documentation, no payment will be issued until those errors or omissions are rectified. Progress payments are made provisionally and do not constitute acceptance of Work not in accordance with the Contract Documents, in the sole discretion of the GLO. **Progress payments for Change Order Work will not be accepted for payment until the related Change Order is executed by the GLO.**

- a.** Building Contractor's Request for Payment (GLO Form 11.04), executed by Contractor, Homeowner, and Inspector;
- b.** Contractor's invoice with itemization of costs;
- c.** Signed and notarized Lien Waiver Affidavit (GLO Form 11.25) and Exhibit A; and
- d.** Progress Inspection Checklist - (GLO Form 11.10), with appropriate signatures in Sections I, II and III.

The supporting documentation and additional documents in this section are required with all Contractor requests for payment of Progress Payments. All referenced numbered forms will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>. Required documentation may change from time to time; **it is the sole responsibility of Contractor to be aware of and obtain information related to any additional requirements for supporting documentation.**

13.2.2 Satisfactory Progress Required. When Satisfactory Progress has not been made by Contractor during any period for which a Progress Payment is due to be made, a percentage of the Progress Payment may be withheld. Determinations to withhold and the specific amount to be withheld shall be made in the sole discretion of the GLO, on a case-by-case basis. Such decisions will be based on the GLO's assessment of past performance and the likelihood that such performance will continue. Upon satisfactory completion of the required Improvements, amounts withheld may be paid along with the next Progress Payment or with the Final Payment, in the sole discretion of the GLO.

13.2.3 The GLO's Duty to Pay. The GLO shall have no duty to pay Contractor except upon receipt of a completed Building Contractor's Request for Payment, GLO Form 11.04, which has been certified by the GDR and approved by the GLO, pursuant to CDBG-DR Program rules and requirements and the Supplemental General Conditions.

13.3 Withholding Payment to Contractor.

The GLO shall be entitled to withhold payment to Contractor while any of the following conditions exist:

- a.** the location, installation, or construction of a required Improvement violates or interferes with any applicable recorded instrument or governmental regulation affecting the Property;
- b.** Contractor makes a material misrepresentation in any request for payment documentation;
- c.** notice of a claim or lien on the Property has been received in connection with the construction, repair, or installation of the required Improvement, and has not been caused to be removed by Contractor.

13.4 Payment for Incomplete Work.

If Contractor is terminated or voluntarily ceases Work before completion of a Housing Unit, payment will be made for Work completed in a satisfactory manner, solely at the discretion of the GLO and without recourse by Contractor. Contractor shall provide all documentation requested by the GLO and/or GDR within twenty-four (24) hours of receipt of the request. GDR will submit to the GLO an assessment and valuation of Work completed. The GLO will make payment to Contractor based solely upon the assessment and valuation of Work completed, as submitted by GDR.

13.5 Failure to Complete Work Within the Time Allotted – Liquidated Damages.

Time is of the essence of this Contract. Contractor's failure to complete the Work within one hundred twenty (120) days or to achieve final completion as required will cause damage to the GLO. These damages shall be liquidated by agreement of Contractor and the GLO, at the rate of one hundred dollars (\$100.00) per day, per house.

13.6 Reduction to Cover Loss.

In addition to Retainage discussed in §13.1.4, the GLO may reduce any invoice prior to payment to the extent necessary to protect the GLO from loss on account of actions of Contractor, including, but not limited to:

- a. Defective Work not remedied;
- b. Damage to Work of a separate contractor;
- c. Failure to maintain scheduled progress or reasonable evidence that the Work will not be completed within the Contract Time;
- d. Failure to comply with the requirements of Texas Government Code Chapter 2258 (Prevailing Wage Law); or
- e. Persistent failure to carry out the Work in accordance with the Contract Documents;
- f. Reasonable evidence that the Work cannot be completed for the remainder of the Project Sum;
- g. Assessment of fines for violations of Prevailing Wage Rate laws;
- h. Failure to exclude the appropriate amount of Retainage when requesting a periodic payment; or
- i. Failure to pay for the retesting of materials that failed their initial tests, in accordance with Specifications requirements.

13.7 Title and Liability.

Title to all material and Work covered by Progress Payments transfers to Homeowner upon payment. Transfer of title to Homeowner does not relieve Contractor of the sole responsibility for the care and protection of materials and Work upon which payments have been made, or the restoration of any damaged Work, and does not waive the right of the GLO to require the fulfillment of all the terms of the Contract.

13.8 Progress Payments and Liability.

Progress Payments to Contractor shall not release Contractor or his surety from any obligations under this Contract.

13.9 Subcontractors.

Upon the GLO's request, manifest proof of the status of Subcontractors' accounts shall be furnished in a form acceptable to the GLO.

13.10 Payment Verification.

Contractor, in requesting payment for materials, shall provide copies of bills of lading, invoices, delivery receipts, or other evidence of the location and value of such materials.

13.11 Effective Approval Date.

For purposes of Texas Government Code §2251.021 (a)(2), the date the performance of service is completed for a Project is the date GDR approves the Building Contractor's Request for Payment for disbursement of the Final Payment on the Project.

13.12 State Funding.

- a. This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or the GLO in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VIII, Section 6 of the Texas Constitution, it

is understood that all obligations of the GLO hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, this Contract may be terminated. In that event, the parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests, accrued up to the date of termination.

- b. Furthermore, any claim by Contractor for damages under this Contract may not exceed the amount of funds appropriated for payment, but not yet paid to Contractor under the Work Order at the time of the breach. **Nothing in this provision shall be construed as a waiver of sovereign immunity.**

13.13 Recapture of Funds.

Contractor shall conduct the Project(s) in a satisfactory manner, as determined by the GLO, as set forth in the Contract Documents. The discretionary right of the GLO to terminate for convenience under Article 20 notwithstanding, it is expressly understood and agreed by Contractor that the GLO shall have the right to terminate the Contract and to recapture, and be reimbursed for any payments made by the GLO (i) that exceed the maximum allowable rate according to the applicable federal funding agency; (ii) that are not allowed under applicable laws, rules, and regulations; or (iii) that are otherwise inconsistent with this Contract, including any unapproved expenditures.

13.14 Overpayment.

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

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Article 14 – Change Orders

14.1 Change Orders Defined.

A “Change Order” means a document executed by the GLO or the GDR (and the Contractor, if required), authorizing revisions to a Project.

14.2 Effect of Change Order.

A Change Order authorizes a change in the scope of the Work or an adjustment in the Project Sum, Contract Sum, or Contract Time. Work performed under a Change Order is subject to all provisions of the Contract Documents.

14.3 Modifications for Which a Change Order is Required.

All changes in the scope of the Work, the Project Sum, Contract Sum, the Contract Time shall be documented by a Change Order. Change Orders are the exclusive method for modifying the Project Sum, Contract Sum, or Contract Time. Neither the GLO nor GDR or any other party may change the scope of the Work, the Project Sum, Contract Sum, or the Contract Time by any method, expressed or implied, other than a Change Order.

14.4 Notice.

No direction, instruction, interpretation, or determination from GDR or the GLO shall be considered for a Change Order under this clause unless Contractor gives the GLO written notice within fifteen (15) days requesting a Change Order and stating the date, circumstances, and source of the directive.

14.5 Agreed and Unilateral Change Orders.

A Change Order may be either an Agreed Change Order or a Unilateral Change Order.

14.5.1 Agreed Change Orders. An Agreed Change Order is a Change Order jointly executed by the GLO, or GDR, and Contractor, in which each agrees to all of the terms of the amendment.

14.5.2 Effect of An Agreed Change Order. The execution of an Agreed Change Order by the GLO, or GDR, and Contractor constitutes the full, final, and complete settlement of all claims with regard to the modifications contained in the Change Order; provided, however, that an Agreed Change Order may be reformed by a written modification signed by Contractor and the GLO, or GDR., for the limited purpose of correcting an error in computation.

14.5.3 Unilateral Change Order (ULCO). A Unilateral Change Order is a Change Order issued by the GLO or GDR and does not require agreement of Contractor.

14.5.4. Effect of a Unilateral Change Order; conversion to an Agreed Change Order. The issuance of a Unilateral Change Order does not preclude any of Contractor’s rights to relief otherwise available under the Contract Documents. Contractor may preserve such rights by submitting to the GLO and GDR a written objection to the Unilateral Change Order setting forth in detail the reasons for its objections and the Contract provisions on which the objections are based, within thirty (30) days of receipt of the Unilateral Change Order. If Contractor does not submit a written objection within the allotted time, Contractor shall be deemed to have accepted the terms of the Unilateral Change Order and waives all claims related to the thereto, and the Unilateral Change Order shall have the full force and effect of any Agreed Change Order.

14.6 Change Orders for Unforeseen Dangerous Condition.

If additional Work is necessary to make repairs or to correct unforeseen dangerous conditions, Contractor shall submit a Change Order Request describing the type of Work needed, the cost of the Work, and the time necessary for the Work to be completed. Unless it is determined there exists an immediate health and safety danger, **NO WORK SHALL BE AUTHORIZED UNTIL APPROVED IN WRITING BY GDR OR THE GLO.** Change Orders will be reviewed for cost reasonableness by GDR and/or the GLO. Failure to complete a Change Order Request Form and provide proper

documentation to justify the request shall result in the rejection of the request. Change Order Request Forms will be available on the GLO's website at <http://recovery.texas.gov/resources/housing/index.html>.

14.7 Invoices and Quotes.

Contractor shall submit detailed itemized lists of labor, material, and equipment costs for Contractor's Work, including quantities and unit costs for each item of labor, material, and equipment.

14.8 Itemized List.

An itemized list of labor, material and equipment costs for each Subcontractor's and/or sub-subcontractor's Work including quantities and unit costs for each item of labor, material, and equipment.

14.9 Fixtures and Equipment.

Where the additional Work involves fixtures, equipment, or as detailed in the Construction Documents, Contractor must provide to the GLO for review and approval of the Change Order Request all product data sheets, as well as the manufacturer's data and warranty.

14.10 Who May Request Change Orders.

Change Order Requests may be initiated by the GLO, GDR, or Contractor as provided in §14.5.

14.11 Change Order Types, Processes, and Pricing.

The GLO or GDR shall provide Contractor with any additional information required by Contractor as to the types of Change Orders, the Change Order processes to be followed, and the method of computing pricing for various types of Change Orders, as determined pursuant to the CDBG-DR Program and this Contract.

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Article 15 – Contract Final Acceptance and Payment

15.1 Request for Final Payment.

At any time following the completion of Work on an individual Project, including Punch List items, cleanup, and the delivery of all documents and other Project Close-out Documents as required by the Contract Documents, Contractor shall submit to GDR, for their review and approval, a request for Final Payment, which shall exclude ten percent (10%) of the payment requested to cover Retainage.

15.2 Final Payment Documentation.

Contractor shall submit, prior to the request for Final Payment, final copies of all Close-out Documents, including maintenance and operating instructions, guarantees and warranties, certificates, documents, and all other items required by the Contract Documents. Contractor shall also submit a consent of surety to Final Payment, an affidavit that all payrolls, bills for materials and equipment, subcontracted Work, and other indebtedness connected with the Work, except as specifically noted, have been paid or will be paid or otherwise satisfied within the period of time required by Chapter 2251, Texas Government Code. Contractor shall furnish an affidavit, along with supporting documentation such as receipts, releases, and waivers or releases of claims, certifying that payment or satisfaction of all such obligations arising out of the Contract have been properly fulfilled. The GLO is entitled to rely upon this affidavit; and Contractor may not submit a claim on behalf of a subcontractor or vendor if that claim has not been noted as an exception in the affidavit.

15.2.1 Items Contractor must submit to accomplish Final Closeout include, but are not limited to, the following:

- a. Contractor Request for Payment (Form 11.04), signed by Contractor, Homeowner, and Inspector;
- b. itemization of costs;
- c. signed and notarized Lien Waiver Affidavit (Form 11.24); with Exhibit A;
- d. signed and notarized Final Bills Paid Affidavit by Contractor (Form 11.08);
- e. a completely executed Final Inspection (Form 11.03), signed and dated (this date initiates the thirty [30] day period for Retainage requirements);
- f. Contract and Subcontract Activity Report (HUD Form 2516);
- g. Green standard certificate;
- h. a completed, signed copy of the RES check energy compliance report when applicable; and
- i. insurance binder(s) covering the subject property, if applicable.

The supporting documentation and additional documents in this section are required with all Final Payment Contractor requests for payment. All forms will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>. Required documentation may change from time to time; **it is the sole responsibility of Contractor to be aware of and obtain information related to any additional requirements for supporting documentation.**

15.3 GDR Approval.

GDR shall review the request for Final Payment promptly but in no event later than ten (10) days after its receipt. Prior to the expiration of this deadline, GDR shall either: (1) return the request for Final Payment to Contractor with corrections and instruction for resubmission; or (2) approve it and submit it to the GLO.

15.4 Offsets and Deductions.

The GLO may deduct from the Final Payment all sums due from Contractor for any reason, and all appropriate deductions authorized under Article 13. If GDR and/or the GLO notes any Work remaining incomplete or defects not remedied, the GLO may deduct the reasonable cost of remedying such deficiencies from the Final Payment and/or Retainage Payment. If such deductions are made, the GLO shall identify each deduction made and the reason therefore and furnish Contractor with an explanation of the deduction and the amount deducted.

15.5 Final Payment Due.

All payments made by the GLO shall be in accordance with Chapter 2251 of the Texas Government Code, the Prompt Payment Act. Thus, Final Payment shall become due and payable by the GLO, subject to all allowable offsets and deductions, on the thirty-first (31st) day next following the GLO's approval of the Contractor Request for Payment. If Contractor disputes any amount deducted by the GLO, Contractor shall give notice of the dispute on or before the thirtieth (30th) day next following receipt of Final Payment; failure to do so within the allotted time will bar any subsequent claim for payment of amounts deducted.

15.6 Effect of Final Payment.

Final Payment shall constitute a waiver of all claims by the GLO relating to the condition of the Work except those arising from (1) faulty or defective Work appearing after Final Completion (latent defects); (2) failure of the Work to comply with the requirements of the Contract Documents; (3) terms of any warranties required by the Contract Documents or implied by law, and (4) claims arising from personal injury or property damage to third parties. Final Payment shall constitute a waiver of all claims by Contractor except those specifically identified in writing and submitted to GDR prior to the application for Final Payment. Provided, however, that the Contract shall not be deemed fully performed by Contractor and closed until the expiration of all warranty periods.

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Article 16 – Contract Warranty and Guarantee

16.1 Contractor’s General Warranty and Guarantee.

Contractor warrants to the GLO that all Work shall be executed in accordance with the Contract Documents, complete in all parts, in accordance with approved practices and customs, and of the best finish and workmanship. Unless otherwise specified, all materials and equipment incorporated in the Work under the Contract shall be new. The GLO may, at its option, agree in writing to waive any failure of the Work to conform to the Contract Documents, and to accept a reduction in the Contract Sum for the cost of repair or diminution in value of the Work by reason of such defect. Absent such a written agreement, however, Contractor’s obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute and is not waived by any inspection or observation by the GLO, GDR or others, by making any Progress Payment or Final Payment, except as provided in §15.6, by the use or occupancy of the Work or any portion thereof by the GLO, at any time, or by any repair or correction of such defect made by the GLO.

16.2 Warranty Period.

Except as otherwise specified, Contractor shall repair all defects in materials, equipment, or workmanship appearing within one (1) year from the date of Final Completion and acceptance of the Work. Upon receipt of written notice from the GLO or the facility user of the discovery of any defects, Contractor shall promptly and at its own cost remedy the defects and replace any property damaged thereby and shall promptly provide written notice to the GLO and, to the extent applicable, Homeowner, indicating action taken to resolve the defect. In case of emergency where delay would cause serious risk of loss or damage to the GLO, or if Contractor, after notice, fails to proceed promptly and remedy within thirty (30) days or within another period of time which has been agreed to in writing, in compliance with the terms of the warranty and guarantee, the GLO may have the defects corrected and Contractor and his surety shall be liable for all expenses incurred.

16.3 Contractor Warranty.

16.3.1 Contractor will provide a set of limited warranties and building and performance standards which include:

- a.** a one (1) year workmanship and materials warranty;
- b.** a two (2) year electrical, mechanical, and delivery system warranty; and
- c.** a ten (10) year structural warranty.

16.3.2 Furthermore, Contractor shall furnish Homeowner with all manufacturers’ and suppliers’ written guarantees and warranties covering materials and equipment furnished under the Contract. Any defects that appear within twelve (12) months from final acceptance of the Work, and that arise from defective or improper materials or workmanship shall, upon notification by the GLO, be corrected or made good by Contractor at Contractor’s expense within ten (10) working days after receipt of notice.

16.3.3 Contractors will also provide, according to “Warranty Standards:”

- a.** the standards of construction established under the Housing Quality Standards that have been approved by HUD for any items for which standards are not published; and,
- b.** except where preempted by the above expressed standards, all applied warranties.

16.4 Separate Warranties.

Where a particular piece of equipment or component of the Work for which a separate warranty is required under the Contract Documents is placed in continuous service before Final Completion, the date of service commencement shall be certified by GDR and/or the GLO and the Warranty Period for that equipment or component shall run from the date so certified. In addition to Contractor’s warranty and duty to repair, as set forth in §§16.1 and 16.2, Contractor expressly assumes all warranty obligations required under the Contract Documents for specific building components, systems, and equipment. Contractor may satisfy any such obligation by obtaining and assigning to the GLO a complying warranty from a manufacturer, supplier, or subcontractor. Where an assigned warranty which does not fully comply with the requirements of the Contract Documents is tendered by Contractor and accepted by the GLO, Contractor shall remain liable to the GLO on all elements of the required warranty that are not provided by the assigned warranty.

16.5 Certification of No Asbestos Containing Materials or Work.

16.5.1 Lead and Asbestos. Contractor shall provide a certification statement, included with each materials submittal, stating that no lead or asbestos containing materials or Work is included within the scope of the proposed submittal.

16.5.1.1 Contractor is responsible for performing investigations of the presence of lead and/or asbestos-containing materials, and any required lead and/or asbestos abatement. Contractor shall provide the GLO with a copy of a signed waste manifest from a proper disposal institution in connection with the disposal of all lead and/or asbestos or materials containing lead and/or asbestos.

16.5.2 Certification of Others. Contractor shall provide at the time of Final Inspection, a notarized certification to the GLO that no lead and/or asbestos containing building materials ("ACBM") or Work were provided, installed, furnished, or added to the Project.

16.5.3 Compliance Required. Contractor shall take whatever measures he deems necessary to ensure that all employees, suppliers, fabricators, materialmen, subcontractors, or their assigns, comply with this requirement.

16.5.4 Requirements of Code. Contractor shall ensure compliance with the Texas Asbestos Health Protection Act (TAHPA – 25 TAC 195) by all subcontractors and assigns as listed in item §16.5.3 above. All materials used under this Contract shall be certified as non ACBM.

16.5.4.1 Every subcontractor shall provide to Contractor a notarized statement that no ABCM has been used, provided, or left on the premises of the Project, and Contractor shall maintain such statements until notified by the GLO that the period for retention of records related to the Project, as stated in §22.16, has passed and destruction of records is appropriate.

16.5.4.2 Contractor shall provide data sheets and/or labels as proof of compliance, to the extent deemed necessary by the GLO for full and complete compliance.

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Article 17 – Good Faith Effort Subcontracting Program (HUBs)

17.1 General Description.

State agencies are required by statute to make a good faith effort to assist Historically Underutilized Businesses (HUBs) in participating in contract awards issued by the State. The Texas Comptroller of Public Accounts (Comptroller) rules, 34 TAC 20.281-20.298, outline the State's policy to encourage outreach to and potential utilization of HUBs in State contracting opportunities through race, ethnic, and gender-neutral means. The goal of this program is to promote full and equal business opportunity for all businesses in State contracting in accordance with the goals specified in the State of Texas Disparity Study. A Contractor who contracts with the State in an amount in excess of one hundred thousand dollars (\$100,000.00) shall be required to make a good faith effort to award subcontracts to HUBs in accordance with 34 Tex. Admin. Code § 20.285 by submitting a HUB Subcontracting Plan at the time of bidding, and by complying with the Subcontracting Plan after it is accepted by the GLO, and for the duration of the Contract.

17.2 Compliance with Approved HUB Subcontracting Plan.

Contractor, having been awarded this Contract in part by complying with the HUB Program statute and rules, hereby covenants to continue to comply with the HUB Program as follows:

Contractor shall:

- a. Prior to substituting a Subcontractor, promptly notify the GLO in the event a change is required for any reason to the accepted HUB Subcontracting Plan;
- b. Conduct the good faith effort activities required and provide the GLO with necessary documentation to justify approval of a change to the approved HUB Subcontracting Plan;
- c. Cooperate in the execution of a Change Order or such other approval of the change in the HUB Subcontracting Plans as Contractor and the GLO may agree to;
- d. Maintain and make available to the GLO upon request business records documenting compliance with the accepted HUB Subcontracting Plan;
- e. Upon receipt of payment for performance of Work, Contractor shall submit to the GLO a compliance report, in the format required by the GLO, that demonstrates Contractor's performance of the HUB Subcontracting Plan;
- f. Promptly and accurately explain and provide supplemental information to the GLO to assist in the GLO's investigation of Contractor's good faith effort to fulfill the HUB Subcontracting Plan and the requirements under HUB Rule 20.14.

17.3 Failure to demonstrate Good Faith Effort.

Upon a determination by the GLO that Contractor has failed to demonstrate a good faith effort to fulfill the Subcontracting Plan or any Contract covenant detailed above, the GLO may, in addition to all other remedies available to it, report the failure to perform to the Comptroller of Public Accounts/Texas Procurement and Support Services Division Vendor Performance and Debarment Program.

17.4 Additional HUB Requirements.

Additional requirements related to HUB Subcontracting were detailed in the RFP, incorporated herein by reference for all purposes.

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Article 18 – Concealed Site Conditions

18.1 Generally.

Contractor is responsible for having visited the Site(s) and having ascertained pertinent local conditions such as location, accessibility, and general character of the Site(s) or building(s), the character and extent of existing Work within and adjacent to the Site(s), and any other Work being performed thereon. Failure to do so will not relieve Contractor from the responsibility for successfully performing the Work at no additional expense to the GLO.

18.2 Subsurface, Latent, or Concealed Conditions.

If, during Contractor's performance of the Contract, any subsurface, latent, or concealed conditions at the Site(s) are found to be materially different from the information included in the bid documents, or if unknown conditions of an unusual nature are discovered differing materially from the conditions usually inherent in Work of the character specified, Contractor shall notify the GLO in writing of such conditions before proceeding with the Work. If necessary, the GLO shall develop a solution and provide it to Contractor. If the solution prompts changes to the Contract Amount and/or Time, the Contract shall be adjusted under Article 14 hereof, Change Orders.

18.3 Environmental Conditions.

For environmental matters, see §2.7 and §9.4.

18.4 Disclaimer.

The GLO makes no representations as to the accuracy or completeness of the Site information furnished to Contractor by the GLO and does not expressly or implicitly warrant such and is not responsible for any interpretations or conclusions reached by Contractor with respect thereto. It is Contractor's sole responsibility to verify to its own satisfaction all Site information including, but not restricted to, topographical data, borings, subsurface information, and utilities and easements, and to account for all reasonably anticipated costs in its proposal for construction.

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Article 19 – Modification of the Contract Time

19.1 No Damages for Delay.

Contractor shall have no claim for monetary compensation or damages for delay or hindrances to the Work from any cause including, without limitation, any act or omission of the GLO.

19.1.2 Suspension of Work for Cause. The GLO may, at any time without prior notice, suspend all or any part of the Work if, in the GLO's sole discretion, it is considered reasonably necessary to do so to prevent or correct any condition of the Work which constitutes an immediate safety hazard, or which may reasonably be expected to impair the integrity, usefulness, or longevity of the Work when completed. The GLO shall give Contractor a written notice of suspension for cause, setting forth the reason for the suspension and identifying the Work to be suspended. Upon receipt after such notice, Contractor shall immediately stop the Work so identified. As soon as practicable following the issuance of such notice, the GLO shall initiate and complete an investigation of the circumstances giving rise to the suspension and shall issue a written determination of their cause. Contractor will not be entitled to an extension of time or compensation for delay resulting from a suspension if the GLO's investigation determines that the cause was within the control of Contractor. If the cause is determined not to have been within the control of Contractor, and the suspension prevents Contractor from completing the Work within the Contract Time, the suspension is an excusable delay and an extension of the 120-day completion requirement shall be granted through a Change Order. Suspensions of Work under this provision shall be no longer than is reasonably necessary to identify and remedy the conditions giving rise to the suspension.

19.1.3 Suspension of Work for the GLO's Convenience. Upon seven (7) days' prior written notice to Contractor, the GLO may at any time, without breach of the Contract, suspend all or any portion of the Work for a period of up to thirty (30) days for its own convenience. The GLO shall give Contractor a written notice of suspension for convenience, which shall set forth the number of days for which the Work, or any portion of it, will be suspended, and the date on which the suspension of Work shall cease. When such a suspension prevents Contractor from completing the Work within the Contract Time, it is an excusable delay. A notice of suspension for convenience may be modified by the GLO at any time upon seven (7) days' prior written notice to Contractor. If the GLO suspends the Work for its convenience for more than sixty (60) consecutive days, Contractor may elect to terminate the Contract pursuant to the provisions of Article 20.

19.1.4 Concurrent Delay. When the completion of the Work is simultaneously delayed by an excusable delay and a delay arising from a cause not designated as excusable under the Contract Documents, Contractor shall be entitled only to a time extension, and not to compensation, for the period of concurrent delay. When the completion of the Work is simultaneously delayed by an excusable delay and an excusable noncompensable delay, Contractor shall be entitled to a time extension only, as provided under §19.1.3.

19.1.5 No Extension. Except as expressly provided in this Article 19, Contractor shall not be entitled to an extension of the Contract Time for any Project and shall bear all responsibility for financial risks which may accrue from various causes of delay in the construction progress.

19.2 Time Extension Requests.

If Contractor believes that the completion of the Work has been delayed by a circumstance designated as excusable under §19.1.3, other than inclement weather, Contractor shall submit to the GLO a written notice, stating the nature of the delay and the activities potentially affected, within thirty (30) days after the onset of the event or circumstance giving rise to the excusable delay. Such claims should be accompanied by sufficient written evidence to document the delay. In the case of a continuing cause of delay, only one claim is necessary. Claims for extensions of time shall be stated in numbers of whole or half calendar days. All requests for extensions of time not submitted in connection with proposed costs for changed or added Work must be made in writing within thirty (30) days after the cessation of the delay. Contractor and the GLO recognize and agree that it is beneficial to each to identify delays and make necessary schedule adjustments promptly, and that a Project schedule prepared and updated by Contractor provides an effective tool for measuring and tracking the impact of delays. Therefore, it is agreed that no extension of time will be granted unless the required notice is submitted Timely, the required Project schedule has been regularly updated and submitted as specified, and the notice includes sufficient documentation

acceptable to the GLO. All Changes to the Contract Time made as a result of such claims shall be by Change Order, as provided under Article 14.

19.2.1 No Release. No extension of time shall release Contractor or the Surety from continuing a performance or payment bond for any obligations under the Contract or such a bond. Those obligations shall remain in full force until the discharge of the Contract.

19.2.2 Contents of Time Extension Requests. Each Time Extension Request shall be accompanied by a quantitative demonstration of the impact of the delay on the current Project schedule. Time Extension Requests shall include a reasonably detailed narrative setting forth (1) the nature of the delay and its cause, (2) the basis of Contractor's claim of entitlement to a time extension, (3) documentation of the actual impacts of the claimed delay on the Project Schedule, and any concurrent delays, (4) description and documentation of steps taken by Contractor to mitigate the effect of the claimed delay including, when appropriate, the modification of the Project Schedule, and (5) such other information that Contractor and/or the GLO considers necessary to justify the claim for an extension of time. No time extensions shall be granted for delays that do not affect the Project schedule.

19.2.3 The GLO's Response. The GLO shall respond to the Time Extension Request by providing to Contractor written notice of the number of days extension granted, if any, and giving its reason if this number differs from the number of days requested by Contractor. Such an extension of Time is effective on the date the GLO's notice is received by Contractor, but a Change Order reflecting the Extension of Time shall be executed by the parties in accordance with Article 14, Change Orders. The GLO will respond to each properly submitted Time Extension Request within fifteen (15) days following its submittal; if the GLO cannot reasonably make a determination about Contractor's entitlement to a time extension within that time, the GLO shall so notify Contractor in writing. Upon written agreement with Contractor, the GLO shall then have not more than thirty (30) additional days to prepare a final response.

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Article 20 – Termination and Suspension of the Contract Prior to Completion

20.1 Termination by the GLO for Cause.

The GLO may, without prejudice to any right or remedy, terminate Contractor's Contract and take possession of the Work Site(s) and of all materials, equipment, tools, construction equipment, and machinery thereon owned by Contractor, under the following circumstances:

- a. Persistent or repeated failure or refusal to supply enough properly skilled workmen or proper materials, except during complete or partial suspensions of Work authorized under the Contract Documents;
- b. Persistent disregard by Contractor of laws, ordinances, rules, regulations, or orders of the GLO or any public authority having jurisdiction;
- c. Persistent failure to prosecute the Work in accordance with the Contract Documents, and to ensure its completion within the time, or any extension thereof, specified in the Work Order;
- d. Failure to remedy defective Work condemned by GDR pursuant to Article 12;
- e. Failure to pay Subcontractors, laborers, materialmen, and suppliers pursuant to Texas Government Code Chapter 2251;
- f. Persistent endangerment by Contractor or its Subcontractors or other vendors, of the safety of labor, safety of third parties, or of the Work itself;
- g. Failure to supply or maintain statutory bonds, pursuant to Article 5, or to supply or maintain required insurance, pursuant to Article 6;
- h. Any other material breach of the Contract; or
- i. Contractor becomes insolvent, files for bankruptcy protection, makes a general assignment of its rights and obligations for the benefit of creditors or is, in the GLO's sole determination, otherwise financially incapable of performing the Work.

The GLO reserves the right to terminate Work authorized at any time for any of the above listed causes. Failure to exercise the right to terminate in any instance or for any proper reason shall not be construed as waiver of the right to do so in any other instance or for any other reason.

20.1.1 Notification and Reinstatement. Except for reasons stated in §20.1(f) above, safety of persons or the Work, GDR shall give Contractor and its surety thirty (30) days' prior written notice of its intent to terminate for any of the above reasons. If Contractor or the surety demonstrates to the satisfaction of the GLO that the condition or conditions upon which the notice of termination is based have been removed, corrected, or will not recur, the GLO in its sole discretion may rescind the notice, and the Contract shall continue unmodified, and Contractor shall not be entitled an extension of time.

20.1.2 Third-Party Completion. If Contractor or the surety fails to so demonstrate within thirty (30) days following receipt of such notice or fails to satisfy the GLO that the condition or conditions upon which the notice of termination is based have been removed, corrected, or will not recur, the GLO may arrange for completion of the Work by another party. The GLO shall deduct the cost thereof from the unpaid Contract Sum remaining, including the GLO contract administrative costs made necessary by such default or neglect, in which event no further payment shall be made by the GLO until all costs of completing the Work have been deducted. If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for the GLO's additional services made necessary thereby, such excess shall be paid to Contractor. If such costs exceed the unpaid balance, Contractor or his surety shall pay the difference to the GLO. This obligation for payment shall survive the termination of the Contract. The GLO reserves the right, where the Contract is terminated for cause, to take assignment of any and all contracts between Contractor and its Subcontractors, vendors, and suppliers, and GDR shall promptly notify Contractor of the contracts the GLO elects to assume. Upon receipt of such notice, Contractor shall promptly take all steps necessary to effect such assignment. **Contractor assumes full responsibility for severance and satisfaction of all subcontracts not assumed by the GLO.**

20.2 Termination for Convenience of the GLO.

The GLO reserves the right, without breach, to terminate the Contract prior to, or during the performance of the Work, for any reason. Upon such occurrence, the following procedures will be initiated:

- (1) The GLO will immediately notify Contractor in writing, specifying the reason for, and the effective date of, Contract termination. Such notice shall also contain any instructions necessary for the protection, storage, or decommissioning of incomplete Work or systems, and for safety.
- (2) **After receipt of a notice of termination, Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at that point under the Contract or Work Order:**
 - a. Stop all Work; and
 - b. Place no further subcontracts or orders for materials or services; and
 - c. Terminate all subcontracts not assumed by the GLO; and
 - d. Cancel all material and equipment orders, as applicable; and
 - e. Take all action necessary to protect and preserve all property in possession of Contractor related to this Contract.
- (3) When the Contract is terminated for the GLO's convenience, Contractor may recover from the GLO payment for all Work satisfactorily executed and accepted by GDR and the GLO, including any additional Work required pursuant to the notice of termination, and for any provable loss and reasonable expenses attributable to the Work and resulting directly from the termination.

20.3 Termination by Contractor.

If the Work is stopped for a period of ninety (90) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, and through no act or fault of Contractor or a Subcontractor or their agents or employees or any other persons performing any of the Work under a subcontract with Contractor, Contractor may, upon thirty (30) additional days' written notice to GDR, terminate the Contract and recover reasonable expenses attributable to the Work resulting from such termination. **If the cause of the Work stoppage is removed prior to the end of the thirty (30) day notice period, Contractor may not terminate the Contract.**

20.4 Settlement Upon Termination.

When the Contract is terminated for any reason, Contractor shall, at any time prior to the close of business within one hundred eighty (180) days after the effective date of termination, submit a final termination settlement proposal to the GLO, based upon recoverable costs as provided under §§20.1, 20.2 or 20.3. If Contractor fails to submit the proposal within the time allowed, the GLO may determine the amount due to Contractor and shall pay the determined amount. Contractor waives claims against the GLO for consequential damages arising out of, or relating to, this Contract. This waiver includes damages incurred by Contractor for principal office expenses, including the compensation of personnel stationed there, for losses of financing, business, and reputation, and for loss of profit except anticipated profit arising directly from Work already performed and accepted by GDR and the GLO.

20.5 Force Majeure.

Except with respect to the obligation of payments under this Contract, if either of the parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; labor strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected party (collectively referred to as a "Force Majeure") then, while so prevented, the affected party's obligation to comply with such covenant shall be suspended, and the affected party shall not be liable for damages for failure to comply with such covenant. In any such event, the party claiming Force Majeure shall promptly notify the other party of the

Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and shall resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, the GLO may terminate this Contract immediately upon written notification to Contractor.

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Article 21 – Dispute Resolution

21.1 Generally.

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code, as further described herein, shall be used, by the GLO and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the procedures described in §21.4 below, and the following shall be observed by the parties

- a. Initiation of Process.** A Contractor's claim for breach of this Contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, Subchapter B, of the Texas Government Code. To initiate the process, Contractor shall submit written notice, as required by Subchapter B, to GDR. Said notice shall specifically state that the provisions of Chapter 2260, Subchapter B are being invoked. A copy of the notice shall also be given to all other representatives of the GLO and Contractor otherwise entitled to notice under the Contract. Compliance by Contractor with Subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Texas Government Code.
- b. Sole Process for Remedy.** The contested case process provided in Chapter 2260, Subchapter C, of the Government Code is Contractor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by the GLO if the parties are unable to resolve their disputes under the negotiation process in §21.1(a) above.
- c. No Waiver of Sovereign Immunity.** Compliance with the contested case process provided in Subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practices and Remedies Code. Neither the execution of the Contract by the GLO nor any other conduct of any representative of the GLO relating to the Contract shall be considered a waiver of sovereign immunity to suit.

21.2 Procedure.

The submission, processing, and resolution of Contractor's claim is governed by the published rules adopted by the GLO pursuant to Chapter 2260, as currently effective, hereafter enacted, or subsequently amended.

21.3 Continuing Performance

Neither the occurrence of an event nor any pending claim constitutes grounds for the suspension of performance by Contractor, in whole or in part.

21.4 Administrative Remedy.

Before submitting any matter not resolved in the ordinary course of business to the dispute resolution process described in §21.1, Contractor shall make a written request to GDR for a determination of the matter in dispute. The written request shall clearly state the disputed issue and include or incorporate by specific reference all information or documents that Contractor wants GDR to consider in reaching his determination. GDR shall issue a written notice of decision on the request, which shall be final and conclusive, unless appealed in writing to the GLO, within thirty (30) days of the notice. The notice of appeal shall particularly state the factual and legal basis for Contractor's objections to GDR's decision. The GLO will review the decision of GDR based on the written notice of appeal and the written record that was the basis of GDR's decision and issue a written notice of decision on appeal. The GLO's written notice of decision on appeal shall be final and conclusive on all matters except for claims of breach of contract which are then subject to the dispute resolution process described in §21.1.

21.5 Non-Waiver.

Nothing herein shall hinder, prevent, or be construed as a waiver of the GLO's right to seek redress on any disputed matter in a court of competent jurisdiction.

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Article 22 – Miscellaneous

22.1 Conflict in Terms and/or Definitions.

Conflicting terms and/or definitions in any federal funding agency provisions; other laws, rules, or regulations; this document; the Contract; the Work Order(s); and any other issuances that may pertain to the services authorized by the GLO will be harmonized to the extent possible, and their meanings shall be ultimately determined, defined, or interpreted by, and in the sole discretion of, the GLO.

22.2 Written Notice and Method of Delivery.

Written notice shall be considered to have been duly given if the document is delivered in person to the designated representative of Contractor or the GLO for whom it is intended, if delivered at or sent by registered or certified mail, return receipt requested, to the last business address of the designated representative known to one who gives the notice, or transmitted by facsimile to the last known business facsimile number of the designated representative, with a receipt retained to prove delivery, or via electronic mail, return receipt requested. Notice is deemed effective when given rather than when received. However, notice by certified mail, or electronic mail is not effective until three (3) days after the date of mailing and notice by facsimile is not effective until the next business day after faxing.

22.3 Supplemental and Special Conditions.

When the Work contemplated by the GLO is of such a character that the Uniform General Conditions of the Contract cannot adequately cover necessary and additional contractual relationships, the Contract may include Special Conditions and other administrative requirements as described below:

22.3.1. Supplemental General Conditions. Supplemental General Conditions, if any, are incorporated herein and describe the standard procedures and requirements of contract administration followed by the GLO, a contracting agency of the State. Supplemental Conditions, if any, may expand upon matters covered by the Uniform General Conditions where necessary. Supplemental Conditions are of such a character that it is to be anticipated that a contracting agency of the State will normally use the same, or similar, conditions to supplement each of its several Projects.

22.3.2. Special Conditions. Special Conditions shall relate to a particular Project and be specific to that Project but shall not weaken the character or intent of the Uniform General Conditions or Supplemental General Conditions, if any.

22.4 Computation of Time.

In computing any time period set forth in this Contract, the first day of the period shall not be included, but the last day shall be.

22.5 Survival of Obligations.

All representations, indemnifications, warranties, and guarantees made in accordance with the Contract Documents will survive final payment, completion, and acceptance of the Work, as well as termination for any reason. All duties imposed upon Contractor by reason of termination, including, without limitation, the duty to assign subcontracts and contracts with vendors and suppliers, shall likewise survive the termination of the Contract.

22.6 No Waiver of Performance.

The failure of either party in any instance to insist on the performance of any of the terms, covenants or conditions of the Contract Documents, or to exercise any of the rights granted thereunder, shall not be construed as waiver of any such term, covenant, condition or right with respect to further performance.

22.7 Governing Law.

This Contract shall be governed by the laws of the State of Texas.

22.8 Captions and Catch Lines.

The captions and catch lines used throughout the Uniform General Conditions are for ease of reference only and have no effect on the meaning of the terms and conditions set forth herein.

22.9 Independent Contractor Status.

The Contract Documents create an independent contractor relationship between the GLO and Contractor and neither party's employees or contractors shall be considered employees, contractors, partners, or agents of the other party.

22.10 No third-party beneficiaries.

The parties do not intend, nor shall any clause be interpreted, to create in any third party any obligations to, or right of benefit by, such third party under these Contract Documents from either the GLO or Contractor.

22.11 Entire Agreement.

These Contract Documents supersede in full all prior discussions and agreements, both oral and written, between the parties relating to the subject matter hereof and constitute the entire agreement.

22.12 Assignment.

The Contract may not be assigned by either party without the prior written consent of the other.

22.13 Severability.

If any provision, sentence, clause, or Article of this Contract is found to be invalid or unenforceable for any reason, the remaining provisions shall continue in effect as if the invalid or unenforceable provisions were not in the Contract. All provisions, sentences, clauses, and Articles of this Contract are severable for this purpose.

22.14 Parties Bound.

Execution of this Contract by each party binds the entity represented as well as its employees, agents, successors, and assigns to its faithful performance.

22.15 No waiver of Sovereign Immunity.

Nothing herein shall be construed as a waiver of the State's sovereign immunity.

22.16 Record Retention.

Contractor shall maintain, in an organized and orderly manner, all records relevant to the Contract for the period of time prescribed by HUD for the CDBG-DR Program. **All participants under the Program, including Contractor, will be notified of the date upon which records may be destroyed.**

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Article 23 – Supplemental General Conditions

23.1 Non-Exclusive List of Laws, Rules, and Regulations.

If applicable to any Project, Contractor must be in compliance with the following laws, rules, and regulations; and any other state, federal, or local laws, rules, and regulations as may become applicable throughout the term of the Contract, and Contractor acknowledges that this list may not include all such applicable laws, rules, and regulations. **Contractor is deemed to have read and understands the requirements of each of the following, if applicable to the Project(s) under this Contract.**

23.1.1 Generally.

- 23.1.1.1 The Acts and Regulations specified in this Contract;
- 23.1.1.2 Consolidated Appropriations Act, 2016 (Public Law 114-113);
- 23.1.1.3 Consolidated Appropriations Act, 2017 (Public Law No. 115-31);
- 23.1.1.4 Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act (Public Law No. 114-223);
- 23.1.1.5 Further Continuing and Security Assistance Appropriations Act, 2017 (Public Law No. 114-254);
- 23.1.1.6 Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56);
- 23.1.1.7 The Housing and Community Development Act of 1974 (12 U.S.C. § 5301 et seq.);
- 23.1.1.8 The United States Housing Act of 1937, as amended, 42 U.S.C. § 1437f(o)(13) (2016) and related provisions governing Public Housing Authority project-based assistance, and implementing regulations at 24 C.F.R. Part 983 (2016);
- 23.1.1.9 Cash Management Improvement Act regulations (31 C.F.R. Part 205);
- 23.1.1.10 Community Development Block Grants (24 C.F.R. Part 570);
- 23.1.1.11 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200);
- 23.1.1.12 Disaster Recovery Implementation Manual;
- 23.1.1.13 Plan for Disaster Recovery;
- 23.1.1.14 Executive Order 12892, as amended;

23.1.2 Civil Rights.

- 23.1.2.1 Title VI of the Civil Rights Act of 1964, (42 U.S.C. § 2000d et seq.); 24 C.F.R. Part 1, "Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development - Effectuation of Title VI of the Civil Rights Act of 1964;"
- 23.1.2.2 Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C. § 2000e et seq.);
- 23.1.2.3 Title VIII of the Civil Rights Act of 1968, "The Fair Housing Act of 1968" (42 U.S.C. 3601 et seq.), as amended;
- 23.1.2.4 Executive Order 11063, as amended by Executive Order 12259, and 24 C. F.R. Part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063." The failure or refusal of Contractor to comply with the requirements of Executive Order 11063 or 24 C.F.R. Part 107 shall be a proper basis for the imposition of sanctions specified in 24 C.F.R. 107.60;
- 23.1.2.5 The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);
- 23.1.2.6 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794.) and "Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development", 24 C.F.R. Part 8. By signing this Contract, Contractor understands and agrees that the activities funded shall be performed in accordance with 24 C.F.R. Part 8; and the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.), including the use of a telecommunications device for deaf persons (TDDs) or equally effective communication system.

23.1.3 Labor Standards.

- 23.1.3.1** The Copeland "Anti-Kickback" Act (18 U.S.C. 874 and re-codified at 40 U.S.C. § 3145); 29 C.F.R. Part 3;
- 23.1.3.2** Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. § 327A and 330 and re-codified at 40 U.S.C. §§ 3701-3708);
- 23.1.3.3** Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act) (29 C.F.R. Part 5);
- 23.1.3.4** Federal Executive Order 11246, as amended;

23.1.4 Employment Opportunities.

- 23.1.4.1** Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C.1701u): 24 C.F.R. §§ 135.3(a)(2) and (a)(3);
- 23.1.4.2** The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. § 4212);
- 23.1.4.3** Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1688); and
- 23.1.4.4** Federal Executive Order 11246, as amended;

23.1.5 Grant and Audit Standards.

- 23.1.5.1** Single Audit Act Amendments of 1996, 31 U.S.C. § 7501;
- 23.1.5.2** Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200);
- 23.1.5.3** Uniform Grant and Contract Management Act (Texas Government Code Chapter 783) and the Uniform Grant Management Standards issued by Governor's Office of Budget and Planning; and
- 23.1.5.4** Title 1 Texas Administrative Code § 5.167(c);

23.1.6 Lead-Based Paint.

- 23.1.6.1** Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)); and 24 CFR 570.608 and 24 CFR Part 35, Subpart B, as applicable.

23.1.7 Historic Properties.

- 23.1.7.1** The National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 *et seq.*), particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2), except as provided in §58.17 for Section 17 projects;
- 23.1.7.2** Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 C.F.R. 1971-1975 Comp., p. 559, particularly section 2(c);
- 23.1.7.3** Federal historic preservation regulations as follows: 36 C.F.R. part 800 with respect to HUD programs;
- 23.1.7.4** The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 *et seq.*), particularly section 3 (16 U.S.C. 469a-1);

23.1.8 Environmental Law and Authorities.

- 23.1.8.1** Environmental Review Procedures for Recipients assuming HUD Environmental Responsibilities (24 C.F.R. Part 58, as amended);
- 23.1.8.2** National Environmental Policy Act of 1969, as amended (42 U.S.C. §§ 4321-4347);
- 23.1.8.3** Council for Environmental Quality Regulations for Implementing NEPA (40 C.F.R. Parts 1500-1508).

23.1.9 Floodplain management and wetland protection.

- 23.1.9.1** Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 C.F.R. part 55, particularly Section 2(a) of the Order (For an explanation of the relationship between the decision-making process in 24 C.F.R. part 55 and this part, see § 55.10.);
- 23.1.9.2** Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 C.F.R., 1977 Comp., p. 121 particularly Sections 2 and 5;

23.1.10 Flood Zone Restriction.

- 23.1.10.1** Contractor is responsible for ensuring that no funds under this Agreement will be used for any activity in an area delineated as a special flood hazard area (defined as zone “A”, “V”, “M” and “E” series) (44 CFR 64.3) in the Federal Emergency Management Agency’s (“FEMA”) most current flood advisory maps (Flood Insurance Rate Map, as amended by Letters of Map Amendment or Letters of Map Revisions) unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain in accordance with Executive Order 11988 and 24 CFR Part 55.

23.1.11 Coastal Zone Management.

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

23.1.12 Sole source aquifers.

- 23.1.12.1** The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) *et seq.*, and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 U.S.C. 300h-3(e));
- 23.1.12.2** Sole Source Aquifers (Environmental Protection Agency-40 C.F.R. part 149);

23.1.13 Endangered species.

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

23.1.14 Wild and scenic rivers.

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

23.1.15 Air quality.

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

23.1.16 Farmland protection.

- 23.1.16.1** Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 *et seq.*) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202);
- 23.1.16.2** Farmland Protection Policy (Department of Agriculture-7 C.F.R. part 658);

23.1.17 HUD environmental standards.

23.1.17.1 Applicable criteria and standards specified in HUD environmental regulations (24 C.F.R. part 51) (other than the runway clear zone and clear zone notification requirement in 24 C.F.R. 51.303(a)(3)); and

23.1.17.2 HUD Notice 79-33, Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials, September 10, 1979.

23.1.18 Environmental justice.

23.1.18.1 Executive Order 12898 of February 11, 1994—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, (59 FR 7629), 3 CFR, 1994 Comp. p. 859.

23.1.19 Suspension and Debarment.

23.1.19.1 Use of debarred, suspended, or ineligible contractors or subrecipients (24 C.F.R § 570.609);

23.1.19.2 General HUD Program Requirements; Waivers (24 C.F.R. Part 5); and

23.1.19.3 Non-procurement Suspension and Debarment (2 C.F.R. Part 2424).

23.1.20 Other requirements.

23.1.20.1 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58).

23.1.21 Acquisition / Relocation.

23.1.21.1 The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et seq.*), 24 C.F.R. Part 42, and 24 C.F.R. Section 570.606.

23.1.22 Faith-Based Activities.

23.1.22.1 Executive Order 13279 of December 12, 2002 - Equal Protection of the Laws for Faith-Based and Community Organizations (67 FR 77141).

23.1.23 Noise Abatement.

23.1.23.1 HUD in 24 CFR Part 51, Subpart B. To help ensure noise levels do not become excessive, construction activities are restricted to mostly weekdays during daylight hours.

23.1.24 Guidance Documents.

23.1.24.1 State of Texas Plan for Disaster Recovery dated September 20, 2016.

23.1.24.2 State of Texas Plan for Disaster Recovery dated March 10, 2017.

23.1.24.3 State of Texas Plan for Disaster Recovery: Hurricane Harvey – Round 1, dated April 6, 2018, as amended.

23.1.24.4 Application Guide, issued by the Texas Department of Housing and Community Affairs.

23.2 Rental Assistance. Contractor is responsible for providing rental assistance to Homeowner if construction is not completed within one hundred twenty (120) days of the Notice to Proceed, regardless of the cause of the delay, in an amount not to exceed Two Thousand Dollars (2,000.00).

REQUIRED INSURANCE

GENERALLY. Contractor shall, at its sole expense, acquire, maintain, and keep in force for the duration of any Work Order issued under this Contract, insurance in the amounts attached herein and under the requirements specified herein. Furthermore, unless specified or otherwise agreed to by the GLO, the required insurance shall be in effect prior to the commencement of work by Contractor and shall continue in full force until the earlier as appropriate of (i) the expiration of the applicable Work Order(s); or (ii) such time as the GLO notifies Contractor that such insurance is no longer required. Any insurance or self-insurance available to the GLO shall be in excess of, and non-contributing with, any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. If, at any time during the term of any Work Order, an insurer or surety fails to provide insurance to Contractor or otherwise fails to comply with the requirements of this Contract, Contractor shall immediately notify the GLO and replace such insurance or bond with an insurer meeting such requirements. General aggregate limits of Contractor's Commercial General Liability policy shall apply per project. Contractor's auto insurance policy shall apply to "any auto."

Approval. Prior approval of the insurance policies by the GLO shall be a condition precedent to any payment of consideration under this Contract and insurance must be submitted for review and approval by the GLO prior to the commencement of work. Any failure of the GLO to timely approve or failure to disapprove the insurance furnished by Contractor shall not relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract.

Continuing Coverage. The GLO's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent to this Contract.

Renewal. Contractor shall provide the GLO with renewal or replacement certificates no less than thirty (30) days before the expiration or replacement of the required insurance.

Additional Insured Endorsement. The GLO, its officers, employees, and authorized agents shall be named as additional insureds for all liability arising under any Work Order issued under this Contract except on Workers' Compensation and Professional Liability policies. **An original additional insured endorsement signed by an authorized insurance company representative must be submitted to the GLO to evidence the endorsement of the GLO as an additional insured on all policies, and the certificate(s) must reference the related GLO Work Order Number.**

Subrogation. Each liability insurance policy, except Professional Liability, shall provide for a waiver of subrogation as to the State of Texas, the GLO, and their officers, employees, and authorized agents, and shall be issued by insurance companies authorized to do business in the State of Texas, and currently rated by A.M. Best as "A-" or better.

Policy Cancellation Endorsement. Except for ten (10) days' notice for non-payment of premium, each insurance policy shall be endorsed to specify that without 30 days' prior written notice to the GLO, the policy shall not be canceled, non-renewed, or coverage and/or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to the address provided in the applicable Work Order. A copy of this signed endorsement must be attached to this Contract.

Alternative Insurability. Notwithstanding the requirements of this Attachment, the GLO reserves the right to consider reasonable alternative methods of insuring the Work Order(s) in lieu of the insurance policies and/or bonds required. It will be Contractor's responsibility to recommend to the GLO alternative methods of insuring the Work Order(s). Any alternatives proposed by Contractor should be accompanied by a detailed explanation regarding Contractor's inability to obtain insurance coverage as described in this Contract. The GLO shall be the sole and final judge as to the adequacy of any substitute form of insurance coverage.

INSURANCE REQUIRED PER WORK ORDER:

TYPES OF COVERAGE	LIMITS OF LIABILITY
a. Worker's Compensation	
Statutory	
b. Employer's Liability	
Bodily Injury by Accident	\$500,000 Ea. Accident
Bodily Injury by Disease	\$500,000 Ea. Employee
Bodily Injury by Disease	\$500,000 Policy Limit
c. Commercial General Liability, including coverage for the following:	
Premises Operations	Combined single limit for bodily injury and property damage of \$1,000,000 per occurrence or its equivalent
Independent Contractors	
Products/Completed Operations	
Personal Injury	
Contractual Liability	
Explosion, Collapse, Underground	
Broad form property damage, to include fire legal liability	
d. Business Automobile Liability owned/leased, owned, hired	
Combined single limit for Non-Bodily Injury and Property Damage of \$1,000,000 per occurrence or its equivalent.	
e. The GLO's Protective Liability Insurance Policy, naming the State of Texas and its employees as insured with the following limits:	
Bodily Injury	\$1,000,000 Each Occurrence
	\$1,000,000 Aggregate
f. Builder's Risk Insurance	
Must have an all risk policy, in the amount equal at all times to twenty-five percent (25%) of the total compensation due to Contractor under the Work Order. The policy shall include coverage for loss or damage caused by certified acts of terrorism as defined in the Terrorism Risk Insurance Act. The policy shall be issued in the name of Contractor and shall name his Subcontractors as additional insureds. The GLO shall be named as a loss payee on the policy. The builder's risk policy shall have endorsements as follows:	
1. This insurance shall be specific as to coverage and not considered as contributing insurance with any permanent insurance maintained on the present premises. If off Site storage is permitted, coverage shall include transit and storage in an amount sufficient to protect property being transported or stored.	
2. For renovation Projects and or portions of Work contained within an existing structure, the GLO waives subrogation for damage by fire to existing building structure(s), if the builder's risk policy has been endorsed to include coverage for existing building structure(s) in the amount described in the Special Conditions. However, Contractor shall not be required to obtain such an endorsement unless specifically required by the Special Conditions. In this Contract, the aforementioned waiver of subrogation shall not be effective unless such endorsement is obtained.	
g. Flood insurance when specified in Supplementary General Conditions or Special Conditions.	
h. Umbrella coverage when specified in Supplementary General Conditions or Special Conditions.	

NOTE: Insurance certificates must be in the form approved by the Texas Attorney General, a sample of which follows this page.

Insurance Certificates must:

- (a) be submitted to insurance@GLO.TEXAS.GOV;
- (b) **prominently display "GLO Contract No. 19-094-014"**; and
- (c) name the General Land Office as an additional insured.

Failure to submit required insurance forms as instructed may significantly delay the start of work under the Contract.

REQUIRED FORM OF CERTIFICATE FOLLOWS THIS PAGE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:		FAX (A/C, No):
	PHONE (A/C, No, Ext):		
INSURED	E-MAIL ADDRESS:		
	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A:		
	INSURER B:		
	INSURER C:		
	INSURER D:		
INSURER E:			
INSURER F:			

Required form of Insurance

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY						EACH OCCURRENCE \$
	COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
	CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/>						MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
							GENERAL AGGREGATE \$
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG \$
	POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/>						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	ANY AUTO						BODILY INJURY (Per person) \$
	ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED <input type="checkbox"/> RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/>
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



AMENDMENT NO. 2 TO GLO CONTRACT NO. 19-094-014

THE GENERAL LAND OFFICE (the “GLO”) and **DRC CONSTRUCTION, LLC** (“Contractor”), each a “Party” and collectively “the Parties” to GLO Contract No. 19-094-014 (the “Contract”), desire to amend the Contract.

WHEREAS, the Parties desire to clarify invoice submittal language; and

WHEREAS, the Parties desire to amend the Scope of Work, Uniform General and Supplemental Conditions, and Form of Contractor-Homeowner Agreement to amend the warranty requirements and federal funding information, as applicable; and

WHEREAS, the Parties desire to update the General Affirmations and required Contract language; and

WHEREAS, these revisions will result in no additional encumbrance of Contract funds;

NOW, THEREFORE, the Parties hereby agree as follows:

1. **SECTION 3.02** of the Contract is deleted in its entirety and replaced with the following:

“3.02 To obtain reimbursement for Work performed on a Project, Contractor shall submit GLO Form 11.04, Building Contractor’s Request for Payment, signed by Contractor and the homeowner of the Project property, along with all required supporting documentation, at the times specified and in accordance with the terms of **Attachment D-2**, as amended, and any assigned Work Order. The GLO agrees to pay Contractor in accordance with Chapter 2251 of the Texas Government Code (the “Prompt Pay Act”).

Travel will not be reimbursed under this Contract.

The Prompt Pay Act generally applies to payments to Contractor. HOWEVER, THE PROMPT PAY ACT DOES NOT APPLY IF CONTRACTOR DOES NOT SUBMIT INVOICES AS SPECIFIED IN THE ASSIGNED WORK ORDER. If Contractor does not submit invoices in strict accordance with the instructions in this section, payment of invoices may be significantly delayed. The GLO shall not pay interest, fees, or other penalties for late payments resulting from Contractor’s failure to submit invoices in strict accordance with the instructions in this section.”

2. **SECTION 5.05** of the Contract is deleted in its entirety and replaced with the following:

“5.05 STATEMENTS OR ENTRIES

WARNING: ANY PERSON WHO KNOWINGLY MAKES A FALSE CLAIM OR STATEMENT TO HUD MAY BE SUBJECT TO CIVIL OR CRIMINAL PENALTIES UNDER 18 U.S.C. § 287, 18 U.S.C. § 1001, AND 31 U.S.C. § 3729.

Except as otherwise provided under federal law, any person who knowingly and willfully falsifies, conceals, or covers up a material fact by any trick, scheme or device or who makes any materially false, fictitious, or fraudulent statement or representation or who makes or uses any false writing or document knowing the writing or document to contain any materially false, fictitious, or fraudulent statement or entry shall be prosecuted under Title 18, United States Code, § 1001.

Under penalties of 18 U.S.C. § 287, 18 U.S.C. § 1001, and 31 U.S.C. § 3729, the undersigned Subrecipient representative hereby declares that he/she has examined this Contract and Attachments and, to the best of his/her knowledge and belief, any statements, entries, or claims made by Subrecipient are true, accurate, and complete.”

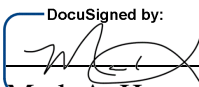
3. **ATTACHMENT A** to the Contract, **Scope of Work**, is deleted in its entirety and replaced with the **Revised Scope of Work**, attached hereto and incorporated herein for all purposes as **ATTACHMENT A-1**.
4. **ATTACHMENT C** to the Contract, **General Affirmations**, is deleted in its entirety and replaced with the **Revised General Affirmations**, attached hereto and incorporated herein for all purposes as **ATTACHMENT C-1**.
5. **ATTACHMENT D-1** to the Contract, **Revised Uniform General and Supplemental Conditions**, is deleted in its entirety and replaced with the **Revised Uniform General and Supplemental Conditions**, attached hereto and incorporated herein for all purposes as **ATTACHMENT D-2**.
6. **ATTACHMENT H** to the Contract, **Form of Contractor-Homeowner Agreement**, is deleted in its entirety and replaced with the **Revised Form of Contractor-Homeowner Agreement**, attached hereto and incorporated herein for all purposes as **ATTACHMENT H-1**.
7. This Amendment shall be effective upon the date of the last signature.
8. The terms and conditions of the Contract not amended herein shall remain in force and effect.

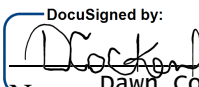
SIGNATURE PAGE FOLLOWS






**SIGNATURE PAGE FOR AMENDMENT NO. 2 TO
GLO CONTRACT NO. 19-094-014**

GENERAL LAND OFFICE

DRC CONSTRUCTION, LLC

DocuSigned by:

742995431E37497
Mark A. Havens, Chief Clerk/
Deputy Land Commissioner
Date of execution: 6/15/2020

DocuSigned by:

AF367EB3763C42E...
Name: Dawn Cockerill
Title: Owner
Date of execution: 6/10/2020

OGC 
PM 
SDD 
DGC 
GC 

ATTACHED TO THIS AMENDMENT:

ATTACHMENT A-1 – Revised Scope of Work

ATTACHMENT C-1 – Revised General Affirmations

ATTACHMENT D-2 – Revised Uniform General and Supplemental Conditions

ATTACHMENT H-1 – Revised Draft of Contractor-Homeowner Agreement

SCOPE OF WORK

1. SCOPE OF SERVICES REQUESTED

Contractor may perform, or cause to be performed, rehabilitation, reconstruction, or new construction of residential construction projects (each a “Project” and collectively the “Projects”) for the CDBG-DR program, in accordance with GLO, local, and/or regional housing guidelines, as applicable. GLO Housing Guidelines may be found on the GLO Community Development and Revitalization (“CDR”) division’s website at www.recovery.texas.gov.

A Work Order may be issued to Contractor per each Zone in which Contractor may provide services. Pursuant to each issued Work Order, Contractor may receive assignments for rehabilitation, reconstruction, and/or new construction Projects, if applicable, and shall execute a Contractor-Homeowner Agreement with the homeowner of each assigned property, establishing the Project-specific terms and conditions.

2. DESCRIPTION OF SERVICES AND REQUIREMENTS

Contractor may be required by the GLO to perform the services enumerated in this section under this Contract. In addition to the services and requirements described below, Contractor must perform any other ancillary construction-related services that may be required for a given property. These ancillary services may go beyond what would be required for the repair/reconstruction of a property.

2.1 Rehabilitation Scope of Work

It is anticipated that homes eligible for rehabilitation will require an array of repairs ranging from minor to major. The scope of work for each repaired structure will vary but may include, although not be limited to, the following:

- a) Development of a thorough scope of necessary repairs using a GLO-prescribed form;
- b) Coordination with the property owner and his/her family and case management from the time of assignment to obtainment of a certificate of occupancy for closing;
- c) Obtainment of all necessary state and local permits and approvals prior to the commencement of the Work for each structure;
- d) Provision of copies of architectural and house plan renderings;
- e) Demolition of damaged interior and exterior materials;
- f) Foundation leveling, repair, and/or elevation;
- g) Structural damage repair;
- h) Building envelope repair, including:
 - Roof repair or replacement and attendant damage;
 - Door and window replacement;
 - Siding/veneer repair or replacement;

- Mechanical (HVAC), electrical, and plumbing systems repair or replacement;
- Drywall repair or replacement; and
- Rough and trim carpentry;
- i) Surface preparation and painting;
- j) Flooring repair or replacement;
- k) Cabinet and appliance replacement;
- l) Lead-based paint mitigation;
- m) Specialty construction elements associated with historic properties, including coordination with Texas Historical Commission, the City of Galveston Landmark Commission and other local historic districts, and stakeholders in other jurisdictions;
- n) Wind mitigation and retrofitting measures (in areas designated as a Catastrophe Area by the Commissioner of Insurance of the State of Texas);
- o) Specialty construction elements associated with Green Building Construction techniques as required by HUD and as adopted by the GLO;
- p) Addressing of special-needs accessibility requirements; and
- q) Performance of close-outs for each Project, which may include obtaining certificate(s) of occupancy from applicable state and local authorities.

2.2 Reconstruction and New Construction Scope of Work

In certain cases, a property owner may be eligible for only the complete reconstruction of his/her home, either substantially within the same footprint as the prior home (reconstruction) or new construction on a different footprint. The scope of work for each reconstructed or newly constructed structure will vary but may include, although not be limited to, the following:

- a) Coordination with the property owner and his/her family and case management from the time of assignment to obtainment of a certificate of occupancy for closing;
- b) Obtainment of all necessary state and local permits and approvals prior to the commencement of the Work for each structure;
- c) Utility disconnection and deactivation;
- d) Demolition of existing structures;
- e) Debris removal in accordance with all federal, state, and local requirements, including the disposal of potential asbestos-containing materials;
- f) Provision of architectural and house plan renderings;
- g) Site preparation;
- h) Construction of new residential structures including 2-, 3-, and 4-bedroom floor plans in accordance with all applicable local and state codes and standards as well

as the specified Green Standard (see GLO Minimum Design Standards for further information);

- i) Meeting of the requirements of the GLO Minimum Design Standards, located on the GLO-CDR website at <https://recovery.texas.gov/local-government/resources/housing/hurricane-harvey-vendors/index.html>;
- j) Compliance in the accessibility and design of Projects with the Americans with Disabilities Act of 1990 (if applicable), known as ADA requirements, with HUD exceptions;
- k) Meeting of the requirements of the GLO Visitability Standards, located on the GLO-CDR website at <https://recovery.texas.gov/local-government/resources/housing/hurricane-harvey-vendors/index.html>; and
- l) Performance of close-outs for each Project, which may include obtaining certificate(s) of occupancy from applicable state and local authorities.

2.3 Additional Requirements

Contractor must perform additional duties including, but not limited to, the following:

- a) Providing professional labor, equipment, and materials adequate to perform the work in accordance with the scope of work issued for each eligible applicant's residential structure while ensuring that all applicable housing standards and codes are met;
- b) Complying with all applicable local, state, and federal laws, regulations, and guidelines, which may include the following: HUD Community Development Block Grant disaster laws, regulations, and guidelines; the Davis Bacon Act (for repairs to properties containing more than eight (8) units); and Section 3 of the Housing and Urban Development Act of 1968;
- c) Mobilizing in the awarded Zone(s) within the specified number of days from the effective date of a Work Order;
- d) Providing documentation and tracking of construction progress;
- e) Meeting with individual property owners to review the scope of work to be performed, including establishing a Work schedule acceptable to property owners and reviewing Work upon final inspection;
- f) Meeting the GLO's 120-day work completion requirement from the Notice to Proceed;
- g) Providing a certificate of compliance from the Green Standard governing body (see the GLO Minimum Design Standards for further information);
- h) Providing information responsive to Public Information Act requests in a timely manner;
- i) Meeting all federal, state, and local requirements for the transport and disposal of municipal solid, industrial, hazardous, and other waste from demolished structures;

- j) Providing a one-year workmanship and materials warranty, a third-party ten-year structural warranty, and, when necessary, a third-party one-year flood insurance policy; and
- k) Assisting homeowners in vacating their damaged homes, if necessary.

ZONES

Contractor will perform services under the Contract in one or more of the zones listed below.

Zone 1 includes properties located in the following Texas counties: Anderson, Bosque, Bowie, Cass, Cherokee, Cooke, Dallas, Delta, Denton, Ellis, Erath, Falls, Fannin, Grayson, Gregg, Harrison, Henderson, Hill, Hood, Hopkins, Johnson, Kaufman, Lamar, Limestone, Marion, McLennan, Navarro, Palo Pinto, Parker, Rains, Red River, Rockwall, Rusk, Smith, Somervell, Tarrant, Upshur, Van Zandt, Wise, and Wood.

Zone 2 includes properties located in the following Texas counties: Angelina, Austin, Brazoria, Brazos, Burleson, Chambers, Colorado, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jasper, Jefferson, Leon, Liberty, Madison, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Robertson, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler, Walker, Waller, Washington, and Wharton.

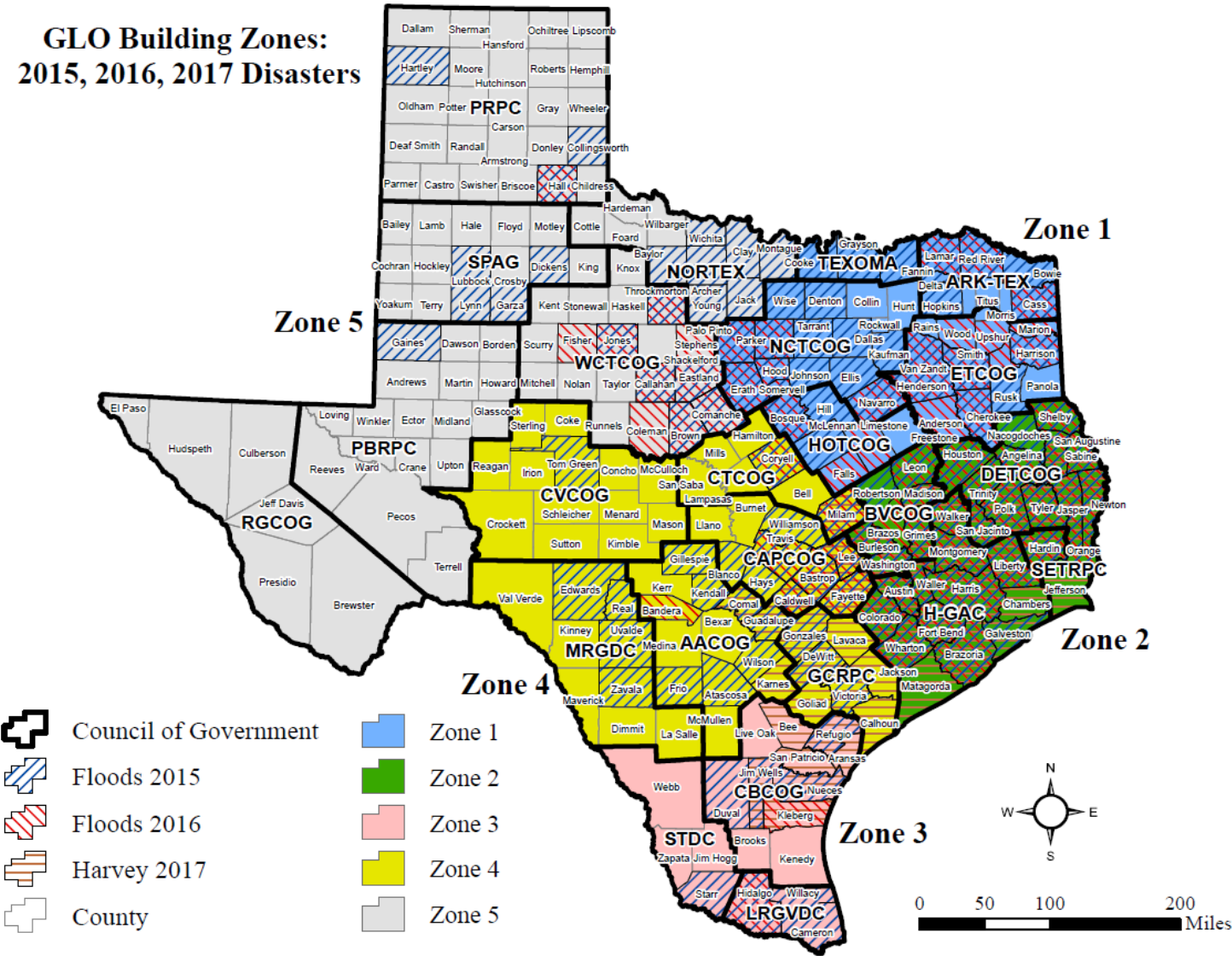
Zone 3 includes properties located in the following Texas counties: Aransas, Bee, Cameron, Duval, Hidalgo, Jim Wells, Kleberg, Nueces, Refugio, San Patricio, Starr, and Willacy.

Zone 4 includes properties located in the following Texas counties: Atascosa, Bandera, Bastrop, Blanco, Caldwell, Calhoun, Comal, Coryell, DeWitt, Edwards, Fayette, Frio, Gillespie, Goliad, Gonzales, Guadalupe, Hays, Jackson, Karnes, Kendall, Lavaca, Lee, Milam, Real, Tom Green, Travis, Uvalde, Victoria, Williamson, Wilson, and Zavala.

Zone 5 includes properties located in the following Texas counties: Archer, Baylor, Brown, Callahan, Clay, Coleman, Collingsworth, Comanche, Dickens, Eastland, Fisher, Gaines, Garza, Hall, Hartley, Jack, Jones, Lubbock, Lynn, Montague, Shackelford, Throckmorton, Wichita, and Young.

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GLO Building Zones:
2015, 2016, 2017 Disasters



PRICING

Reconstruction and New Construction Services: Composite Square-Foot Pricing

The following prices per square foot will be used for all reconstruction and new construction services for each respective house size for each region. Any additional construction costs created by unusual, site-specific conditions will be considered via the change order process. If Contractor incurs site-specific costs associated with facilitating the purchase of one year of homeowner’s insurance (and/or flood and windstorm insurance policies, when applicable), Contractor may be paid a site-specific administration fee of up to \$100.

Zone 1			Zone 2			Zone 3			Zone 4			Zone 5		
2 BR	3 BR	4 BR	2 BR	3 BR	4 BR	2 BR	3 BR	4 BR	2 BR	3 BR	4 BR	2 BR	3 BR	4 BR
\$120.78	\$119.11	\$117.11	\$125.74	\$123.71	\$121.89	\$126.18	\$125.84	\$124.77	\$125.26	\$124.20	\$122.09	\$121.41	\$120.05	\$117.93

Rehabilitation Services: Per-Unit Pricing

The pricing per unit for Rehabilitation Services pricing per unit may be approved for each Project and may consider proposed unit pricing from the selected builders and/or standard pricing using RS Means or a similar cost-estimate system. This pricing may be standardized in the Builder Assignment Method, as amended, or in any Work Order(s) issued.

If Contractor incurs site-specific costs associated with facilitating the purchase of one year of homeowner's insurance (and/or flood and windstorm insurance policies, when applicable), Contractor may be paid a site-specific administration fee of up to \$100.

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General Affirmations

To the extent they apply, Contractor affirms and agrees to the following, without exception:

1. Contractor represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Contractor nor the firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such a firm, corporation, partnership, or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Contract or any solicitation response upon which this Contract is based to any competitor or any other person engaged in the same line of business as Contractor.
2. If the Contract is for services, Contractor shall comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.
3. Under Section 231.006 of the Family Code, the vendor or applicant [Contractor] certifies that the individual or business entity named in this Contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
4. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application. Contractor certifies it has submitted this information to the GLO.
5. If the Contract is for the purchase or lease of computer equipment, as defined by Texas Health and Safety Code Section 361.952(2), Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code, related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in Title 30 Texas Administrative Code Chapter 328.
6. Pursuant to Section 2155.003 of the Texas Government Code, Contractor represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.
7. Payments due under the Contract shall be directly applied towards eliminating any debt or delinquency Contractor owes to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support.
8. Upon request of the GLO, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.

9. If the Contract is not for architecture, engineering, or construction services, except as otherwise provided by statute, rule, or regulation, Provider must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve any dispute arising under the Contract. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**
10. If Texas Government Code Chapter 2270 prohibiting state contracts with companies boycotting Israel applies to Contractor and this Contract, then Contractor verifies it does not boycott Israel and will not boycott Israel during the term of this Contract.
11. This Contract is contingent upon the continued availability of lawful appropriations by the Texas Legislature. Contractor understands that all obligations of the GLO under this Contract are subject to the availability of state funds. If such funds are not appropriated or become unavailable, the GLO may terminate the Contract. The Contract shall not be construed as creating a debt on behalf of the GLO in violation of Article III, Section 49a of the Texas Constitution.
12. Contractor certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
13. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of the GLO, (2) a person who at any time during the four years before the effective date of the Contract was the executive head of the GLO, or (3) a person who employs a current or former executive head of the GLO.
14. Contractor represents and warrants that all statements and information prepared and submitted in connection with this Contract are current, complete, true, and accurate. Submitting a false statement or making a material misrepresentation during the performance of this Contract is a material breach of contract and may void the Contract or be grounds for its termination.
15. Pursuant to Section 2155.004(a) of the Texas Government Code, Contractor certifies that neither Contractor nor any person or entity represented by Contractor has received compensation from the GLO to participate in the preparation of the specifications or solicitation on which this Contract is based. Under Section 2155.004(b) of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate. This Section does not prohibit Contractor from providing free technical assistance.
16. Contractor represents and warrants 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.

17. The Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the GLO.
18. CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE GLO, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. CONTRACTOR AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.
19. CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE GLO AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) THE GLO'S AND/OR CONTRACTOR'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE GLO BY CONTRACTOR OR OTHERWISE TO WHICH THE GLO HAS ACCESS AS A RESULT OF CONTRACTOR'S PERFORMANCE UNDER THE CONTRACT. CONTRACTOR AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, CONTRACTOR WILL REIMBURSE THE GLO AND THE STATE OF TEXAS FOR

ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE GLO DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF CONTRACTOR OR IF THE GLO IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, THE GLO WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR WILL PAY ALL REASONABLE COSTS OF THE GLO'S COUNSEL.

20. Contractor has disclosed in writing to the GLO all existing or potential conflicts of interest relative to the performance of the Contract.
21. Sections 2155.006 and 2261.053 of the Texas Government Code, prohibit state agencies from accepting a solicitation response or awarding a contract that includes proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
22. Contractor understands that the GLO will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material related to this Contract may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor shall make any information created or exchanged with the State/GLO pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State or the GLO.
23. The person executing this Contract certifies that he/she is duly authorized to execute this Contract on his/her own behalf or on behalf of Contractor and legally empowered to contractually bind Contractor to the terms and conditions of the Contract and related documents.
24. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. The acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the

investigation or audit. Contractor shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the Contract and the requirement to cooperate is included in any subcontract it awards. The GLO may unilaterally amend the Contract to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.

25. Contractor certifies that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in the Contract by any state or federal agency.
26. Contractor expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Contractor represents and warrants to the GLO that any technology provided to the GLO for purchase pursuant to this Contract is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of: providing equivalent access for effective use by both visual and non-visual means; presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this Section, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans With Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.
27. If the Contract is for the purchase or lease of covered television equipment, as defined by Section 361.971(3) of the Texas Health and Safety Code, Contractor certifies its compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code, related to the Television Equipment Recycling Program.
28. In accordance with Texas Government Code Chapter 2252, Subchapter F, any iron or steel product Contractor uses in its performance of the Contract that is produced through a manufacturing process, as defined in Section 2252.201(2) of the Texas Government Code, must be produced in the United States.
29. The GLO does not tolerate any type of fraud. GLO policy promotes consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Contractor shall report any possible fraud, waste, or abuse that occurs in connection with the Contract to the GLO's Fraud Reporting hotline at (877) 888-0002.

30. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and Contractor agrees that the Contract can be terminated if Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.
31. If Contractor, in its performance of the Contract, has access to a state computer system or database, Contractor must complete a cybersecurity training program certified under Texas Government Code Section 2054.519, as selected by the GLO. Contractor must complete the cybersecurity training program during the initial term of the Contract and during any renewal period. Contractor must verify in writing to the GLO its completion of the cybersecurity training program.
32. Under Section 2155.0061, Texas Government Code, Contractor certifies that the entity named in this contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

UNIFORM GENERAL AND SUPPLEMENTAL CONDITIONS
CDBG-DR HOME BUILDERS

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Article 1 – General Contract Definitions

Unless the context clearly requires another meaning, the following terms shall have the meaning assigned below:

“[Applicant](#)” means a citizen or household eligible to receive benefits under the CDBG-DR Program for housing services.

“[Building Contractor’s Request for Payment](#)” means Form 11.04, signed by Contractor, Homeowner, and Inspector. This form will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>.

“[Case Manager / Mobility Counselor](#)” means the firm responsible for providing comprehensive application management and mobility counseling services to Applicants under the Program, under separate contract with the GLO.

“[CDBG-DR](#)” (or “[Program](#)”) means the U.S. Department of Housing and Urban Development’s (“HUD”) Community Development Block Grants for Disaster Recovery Program, including residential repair, construction, or reconstruction projects or programs administered by the GLO.

“[Change Order](#)” means a document executed by the GLO or the GDR (and the Contractor, if required), authorizing revisions to a Project.

“[Change Order Request](#)” means a written request initiated by the GLO, GDR, or Contractor in the event additional Work is necessary on a Project, describing the type of additional Work needed, the cost of the additional Work, and the time necessary for the additional Work to be completed.

“[Close-out Documents](#)” means the product brochures, product/equipment maintenance and operations instructions, manuals, warranties, as-built record documents, affidavits of payment, releases of lien and claim, etc., and as may be further defined or identified and required by the Contract Documents.

“[Contract](#)” means all of the Contract Documents between the GLO and Contractor.

“[Contract Date](#)” is the effective date of the Contract.

“[Contract Documents](#)” means the Contract, the Conditions of the Contract (General, Supplementary General, and Special Conditions), any Work Order(s) issued under the Contract, and any Change Order(s) issued; the drawings, specifications, bidding documents; and any Contractor-Homeowner Agreement(s).

“[Contractor](#)” means the individual, corporation, company, partnership, firm, or other organization that has contracted with the GLO to perform the Work under the Contract.

“[Contractor-Homeowner Agreement](#)” means the agreement signed by the Contractor and the Homeowner prior to the commencement of Work on an assigned Project.

“[Contract Sum](#)” means the total compensation payable to Contractor under any Work Order(s) issued under the Contract.

“[Contract Time](#)” means the period between the date the Notice to Proceed was issued by the GLO to Contractor for an assigned Project and the date scheduled for Final Completion of the Project in the Contract Documents, as may be amended by Change Order. Unless otherwise specified in writing, Contractor shall achieve Final Completion within one hundred twenty (120) days of receipt of the Notice to Proceed.

“[Date of Commencement](#)” means the date designated in a Notice to Proceed that Contractor shall commence the Work for a specified Project.

“[Day](#)” means a calendar day, unless otherwise specifically stipulated.

“[Drawings](#)” mean the work product, consisting of construction blueprints and/or plans, that depicts the location and quantity of elements of the Work.

“[Final Completion](#)” means that the Improvements are fit for their intended use in accordance with the Plans and Specifications, and all items specified in Article 15 have been executed and delivered to, and accepted by, the GLO or the GDR.

“[Final Inspection](#)” means an inspection conducted to determine whether Work has been completed as authorized; determine whether all deficiencies have been corrected; and to initiate the mandated period prior to the release of Retainage and/or the issuance of Final Payment to the Contractor.

“[Final Payment](#)” means the payment of 40% of the Project Sum to Contractor upon receipt by the GLO of a payment request submitted by Contractor after the completion of the Final Inspection.

“[Form 11.02 Pre-Construction Conference Report and Notice to Proceed](#)” means a GLO Form 11.02, signed by the Homeowner, Contractor, and Program to allow the initiation of construction. This form will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>.

“[GLO](#)” means the Texas General Land Office, its officers, employees, and designees, and the State of Texas and any duly authorized representative, acting by and through the GLO.

“[GLO’s Designated Representative](#)” or “[GDR](#)” means the individual appointed or assigned by the GLO to be its on-site representative during the Project(s), to exercise certain powers on behalf of the GLO and to undertake certain contract administration activities, as specifically outlined in the Contract Documents. GDR may also be referred to as Project Manager (“PM”), and the terms are interchangeable.

“[Homeowner](#)” means an Applicant, as defined herein, who owns the parcel of real property identified as the Site of the residential reconstruction, rehabilitation, or new construction activity assigned to Contractor.

“[Housing Unit](#)” means one single-family dwelling.

“[Inspector](#)” means a qualified individual who examines and assesses Work done on the Project(s). “Qualified,” for purposes of this definition, means that individual has: a current certification from a recognized construction organization, or five years construction experience (minimum), or approval by the GLO.

“[Improvement](#)” means Work by Contractor that has been ordered completed, revised, or corrected in any way by the GLO or GDR.

“[New Construction](#)” means new Housing Units constructed on property either previously undeveloped or not previously used for residential purposes.

“[Notice to Proceed](#)” means the written authorization from the GLO giving Contractor the authority to commence Work for a specified Project.

“[Plans and Specifications](#)” means the construction plans to be used during construction to establish that newly constructed, reconstructed, or rehabilitated housing provided to Applicants through programs funded by the GLO result in housing which is safe, sanitary, and affordable.

“[Pre-Construction Conference](#)” means an informational meeting between the Contractor and Homeowner during which Project details are discussed and required Project documentation is executed.

“[Program](#)” (or “[CDBG-DR](#)”) means HUD’s Community Development Block Grants for Disaster Recovery Program, including residential construction, reconstruction, or rehabilitation projects or programs administered by the GLO.

“[Progress Inspection](#)” means an inspection conducted during construction, typically at fifty percent (50%) of Project completion, to determine whether the Work that has been performed to date is complete and accurate according to the Plans and Specifications.

“[Progress Payment](#)” means the payment of a portion of the Project Sum based on completed work to Contractor upon receipt by the GLO of payment request submitted by Contractor after successful completion of a Progress Inspection for a specified Project.

“[Project](#)” means the Work authorized by the GLO to be performed on a residential structure assigned to the Contractor, as more fully described in the Contract Documents.

“[Project Sum](#)” means the total compensation payable to Contractor for completion of the Work for one Project.

“[Property](#)” means that certain parcel of real property that is the Site of the Housing Unit assigned to Contractor as a Project, to be rehabilitated, reconstructed, or newly constructed.

“[Reconstruction](#)” means the demolition and rebuilding of a Housing Unit which replaces a similar structure on the same Property.

“[Rehabilitation](#)” means the repair or restoration of Housing Units damaged during a disaster event to applicable construction codes and standards.

“[Samples](#)” means the physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish standards by which the Work will be judged.

“[Satisfactory Progress](#)” means the acceptable level of advancement of a Project by Contractor, as indicated by the timely scheduling of each required inspection within the time period specified on the Project’s pay schedule.

For Reconstruction and New Construction Projects, the following schedule shall apply:

1. Fifty percent (50%) Progress Inspections must be scheduled within sixty (60) days of the Notice to Proceed for a one hundred (120) day Contract Time.
2. Final Inspections must be *passed* within one hundred twenty (120) days of the Notice to Proceed for a one hundred twenty (120) day Contract Time.

For Rehabilitation Projects, the following schedule shall apply:

1. Fifty percent (50%) Progress Inspections must be scheduled within sixty (60) days of the Notice to Proceed for a one hundred twenty (120) day Contract Time.
2. Final Inspections must be *passed* within one hundred twenty (120) days of the Notice to Proceed for a one hundred twenty (120) day Contract Time.

“[Shop Drawings](#)” means the drawings, diagrams, illustrations, schedules, performance charts, brochures, and other technical data which are prepared by Contractor or any Subcontractor, manufacturer, supplier, or distributor and which illustrate some portion of the Work.

“[Sign Off](#)” means the process indicating that Contractor’s Work on the Housing Unit as required under the Contract and Work Order is complete and Homeowner has accepted the performance as satisfactory.

“[Site](#)” means the geographical area at the location where the Work is to be performed.

“[Special Conditions](#)” means the documents containing terms and conditions relating to a specific Project and particular to it. Special Conditions, when used, are a part of the Contract Documents and supersede the Uniform General Conditions to the extent of conflict.

“[Specifications](#)” means any work product, whether produced by the GLO or an outside agency, which establishes the quality of the products and processes to be used to produce the Work.

“[Subcontractor](#)” means a person or organization that, as an independent contractor, contracts directly or indirectly with Contractor to perform part of or the entire Contract between the GLO and Contractor.

“[Supplemental General Conditions](#)” means the standard procedures and contract administration requirements of an individual State contracting agency that alter or expand upon matters covered in the Uniform General Conditions. Supplemental General Conditions, when used, are a part of the Contract Documents and supersede the Uniform General Conditions to the extent of conflict.

“[Time Extension Request](#)” means a written notice submitted to the GLO or GDR by Contractor in the event Contractor believes Work on a Project has been delayed by a circumstance designated as excusable under §19.1.3, including inclement weather.

“[Timely](#)” means within forty-eight (48) hours, or a period of time otherwise specified by the GLO or GDR.

“[Unit Price Work](#)” means Work to be paid for on the basis of unit prices submitted by Contractor pursuant to GLO RFP No. X0014978-AW.

“[Work](#)” means all labor, plans, materials, facilities, and all other services necessary or incidental to the fulfillment of Contractor’s obligations for a Project in conformance with the Contract Documents.

“[Work Order](#)” means an individually negotiated document authorizing specified Work under the Contract, if any.

NOTE: THE TERMS “BID,” “BIDDER,” OR SIMILAR TERMS USED IN THIS DOCUMENT ALSO MEAN “PROPOSAL,” “PROPOSER,” OR “RESPONDENT” AS APPROPRIATE FOR THE TYPE OF PROJECT FOR WHICH THESE GENERAL CONDITIONS ARE USED.

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Article 2 – General Laws Governing Construction

2.1 Compliance with Laws.

In the execution of the Contract Documents and the Work, Contractor shall comply with all applicable state and federal laws, rules, and regulations including, but not limited to, laws governing labor, equal employment opportunity, safety, environmental protection, and prevailing wage rates. Contractor shall be familiar, and at all times observe and comply with, all federal, state, and local laws, ordinances, and regulations that in any manner affect the conduct of the Work. Except where expressly required otherwise by applicable laws and regulations, neither the GLO nor the GDR shall be responsible for monitoring Contractor's compliance with any laws or regulations. Competent evidence of compliance with applicable laws shall be furnished.

2.1.1 Contractor shall cooperate with city or other governmental officials at all times where their jurisdiction applies. Contractor shall make application, pay all fees unless they are specifically noted as being paid or being waived by the GLO, and provide supporting documentation necessary to secure any permits which are required for the performance of the Contract Documents and the Work. Contractor has a continuing obligation throughout the term of the Contract to conduct his operation under duly issued permits and, in the event Contractor loses or has had revoked a necessary permit or if the permit expires, Contractor must take immediate steps to apply for and receive another permit.

2.1.2 Where the Underwriters' Laboratories have established standards and issued labels for a particular group, class, or type of equipment, the Underwriters' label shall be required on all equipment in that category. The International Building Code, National Electric Code, International Mechanical Code, and the International Plumbing Code (latest versions) shall be minimum requirements. Competent evidence of compliance with applicable codes shall be furnished.

2.2 State Sales and Use Taxes.

The GLO qualifies for exemption from State and Local Sales and Use Taxes pursuant to the provisions of Chapter 151, Texas Tax Code. Contractor may claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts. Taxes paid on materials utilized to construct, reconstruct, or rehabilitate Housing Units for individual Homeowners do not qualify for exemption as the purchasing of such materials provide a direct benefit to the Homeowner, not the GLO.

2.3 Antitrust Claims.

Contractor hereby assigns to the GLO any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 U.S.C.A. Sec. 1 *et seq.*

2.4 Venue for Lawsuits.

The venue for any lawsuit arising from this Project shall be in a court of competent jurisdiction in Travis County, Texas.

2.5 Licensing of Trades.

Contractor shall comply with all applicable provisions of state law related to required licensing of skilled tradesmen, contractors, materialmen, suppliers and or laborers, as necessary to accomplish the Work.

In the event Contractor or any Subcontractor loses its license for any reason during the term of performance of the Contract, Contractor shall promptly hire or contract with a licensed provider of the service at no additional cost to the GLO.

2.6 Patents and Copyrights.

Contractor shall be responsible at all times for compliance with applicable patents or copyrights encompassing, in whole or in part, any design, device, material, or process utilized, directly or indirectly, in the performance of the Work.

Regardless of whether the GLO has specified the use of a particular design, device, material, or process, Contractor shall pay all applicable royalties and license fees and shall provide, prior to commencement of the Work hereunder and at all times

during the performance of same, for the lawful use of any design, device, material, or process covered by letters patent or copyright by suitable legal agreement with patentee, copyright holder, or their duly authorized representative.

2.7 Environmental Regulations.

At all times, Contractor shall conduct its activities in compliance with applicable laws and regulations and other requirements of the Contract relating to the environment and its protection. Contractor is responsible for obtaining and maintaining permits related to storm water run-off. Contractor covenants to conduct its operations consistent with storm water run-off permit conditions. Contractor shall be responsible for any hazardous materials brought to the site by Contractor, Subcontractor, Suppliers, or anyone else for whom Contractor is responsible. No hazardous materials shall be incorporated into the Work without prior approval of the GLO.

2.8 Lead and Asbestos.

Contractor shall be responsible for determining the presence of lead and asbestos containing materials and any lead and asbestos abatement, as may be required under applicable law. Contractor shall provide the GLO with a copy of a signed waste manifest from a proper disposal institution, in connection with Contractor's disposal of any lead or asbestos.

2.9 Antiquities.

Contractor shall take precaution to avoid disturbing primitive records and antiquities of archaeological, paleontological, or historical significance. No objects of this nature shall be disturbed without written permission of the GLO and the Texas Historical Commission. When such objects are uncovered unexpectedly, Contractor shall stop all Work in close proximity and notify GDR and the Texas Historical Commission of their presence and shall not disturb them until written permission and permit to do so is granted. All primitive rights and antiquities, as defined in chapter 191, Texas Natural Resource Code, discovered on the GLO's property shall remain property of the State of Texas and the Texas Historical Commission. If it is determined by the GLO in consultation with the Texas Historical Commission that exploration or excavation of primitive records or antiquities on Project Site is necessary to avoid loss, Contractor shall cooperate in salvage work attendant to preservation. If the Work stoppage or salvage work causes an increase in Contractor's cost of, or time required for, performance of the Work, Contractor may file with GDR a Notice of Claim as described in Article 14, Change Orders.

2.10 Franchise Tax Status.

Contractor agrees to execute and provide to the GLO a Certification of Franchise Tax Payment, on a form provided by the Texas Comptroller of Public Accounts.

2.11 Taxpayer and Vendor Account Information.

Contractor agrees to execute and provide to the GLO a Taxpayer and Vendor Account Information form, as obtained from the Texas Comptroller of Public Accounts, stating that Contractor is in "Good Standing" and not on "Vendor Hold."

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Article 3 – Compliance with Federal and State Laws

3.1 Federal Funding. Funding for this Contract is appropriated under, either individually or in combination, pursuant to the following:

- 3.1.1** The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2016 (Public Law 114-113), enacted December 18, 2015, making funds available for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas declared in 2015, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 *et seq.*) related to the consequences of Hurricanes Joaquin and adjacent storm systems, Hurricane Patricia, and other flood events.
- 3.1.2** The Transportation, Housing and Urban Development, and related Agencies Appropriations Act, 2017 (Public Law 115-31), enacted May 5, 2017, to address remaining unmet needs arising from qualifying major disasters that occurred in 2015 and 2016, and for qualifying disasters that occur in 2017 or later pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 *et seq.*).
- 3.1.3** The Continuing Appropriations Act, 2017 (Public Law 114-223), enacted September 29, 2016, making funds available for necessary expenses for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared in 2016, and which the disaster occurred prior to the date of enactment of this Act.
- 3.1.4** The Further Continuing Appropriations Act, 2017 (Public Law 114-254), enacted on December 10, 2017, amending the Continuing Appropriations Act, 2017 (Public Law 114-223) making funds available for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared in 2016 and occurring prior to December 10, 2016.
- 3.1.5.** The Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56), enacted on September 8, 2017, to facilitate disaster relief, long term recovery, restoration of infrastructure and housing, economic revitalization in the most impacted and distressed areas resulting from a major disaster declared in 2017 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).
- 3.1.7.** The Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Public Law 115-123), enacted February 9, 2018, for necessary expenses for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed areas resulting from a major declared disaster that occurred in 2017 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).
- 3.1.8** The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (Public Law 116-20), enacted June 6, 2019, for necessary expenses for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed areas resulting from a major disaster that occurred 2018 or 2019 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).
- 3.1.9** Additional funding as may be appropriated and/or allocated during the term of this Contract. The fulfillment of this Contract is based on all funds being made available under Catalog of Federal Domestic Assistance (CFDA) No. 14.228 to the GLO as the lead administrative state agency for Texas CDBG-DR programs. All expenditures under this Contract must be made in accordance with this Contract, the rules and regulations promulgated under the applicable CDBG-DR Program, and any other applicable laws. Further, Contractor acknowledges that all funds are subject to recapture and repayment for non-compliance.

3.2 Prevailing Wage Schedule.

Based on current Project conditions, the Federal Davis-Bacon Act does not apply to this Contract. However, if conditions change, and if applicable, Contractor shall be subject to some or all of the requirements thereof.

3.3 All Applicable Federal Laws.

Contractor shall be responsible for complying with all federal laws, rules, and regulations pertaining to the CDBG-DR Program contained in the list in Supplemental General Conditions and any that may become applicable throughout the term of the Contract. Contractor acknowledges that this list may not include all such applicable laws, rules, and regulations. **Contractor is deemed to have read and understands the requirements of each law, rule, and regulation, if applicable to the Project under the Contract.**

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Article 4 – Drawings and Specifications

4.1 Ownership of Drawings and Specifications.

All Drawings, Specifications, and copies thereof furnished by the GLO's vendors or contractors are, and shall remain, property of the GLO. They are not to be used on any other project by Contractor and, with the exception of one (1) Contract set, are to be returned to the GLO, upon request, following completion of the Work.

4.2 Contract Drawings and Specifications.

Contractor shall develop a set of Contract Drawings and Specifications, as guided by minimum requirements provided by the GLO, before on-site Work commences.

4.3 Interrelation of Documents.

The Drawings depict the location and quantity of elements of the Work. The Specifications indicate required minimum material standards. All documents are intended to be complementary to produce the Work.

4.4 Resolution of Conflicts in Documents.

4.4.1 In the event of conflict between or among Drawings and Specifications, the better quality or greatest quantity shall prevail. In the event of conflict among provisions of Specifications, using the CSI format, the specifications in the division of the predominant discipline will govern inconsistent provisions found elsewhere.

4.4.2 In the event of conflict among the drawings, the large-scale drawings prevail over the small-scale drawings.

4.5 Contractor's Duty to Review Contract Documents.

In order to facilitate its responsibilities for completion of the Work in accordance with and as reasonably inferable from the Contract Documents, prior to commencing the Work, Contractor shall examine and compare the Contract Documents; information furnished by the GLO pursuant to §4.7; relevant field measurements made by Contractor; and any visible conditions at the Site(s) affecting the Work. By accepting an assignment of a Project from the GLO or the GDR, Contractor affirms that a Site visit has occurred, all documents have been reviewed, and Contractor has identified all Work which must be completed on the Site and accepts the scope of Work which has been prepared.

4.6 Discrepancies and Omissions in Drawings and Specifications.

4.6.1 If, in the course of the performance of the obligations in §4.5, Contractor discovers any errors, omissions or inconsistencies in the Contract Documents, Contractor shall promptly report them to the GLO and and/or the GDR. It is recognized, however, that Contractor is not acting in the capacity of a licensed design professional, and that Contractor's examination is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions, or inconsistencies or to ascertain compliance with applicable laws, building codes, or regulations.

4.6.2 Contractor has no liability for errors, omissions, or inconsistencies described in §§4.5 and 4.6.1 unless Contractor knowingly failed to report a recognized problem to the GLO. If, however, Contractor fails to perform the examination and reporting obligations of these provisions, Contractor shall be responsible for any avoidable costs or direct damages.

4.6.3 Contractor shall propose the most practical solution to resolve the conflict or omission, requiring the minimum schedule and budget impact and furthering the best interest of the Project. The GLO shall evaluate the proposed solution and provide a response to Contractor. If the solution prompts changes to the Contract Sum or Contract Time, the Contract shall be adjusted under Article 14 by Change Order.

4.6.4 The GLO makes no representations, express or implied, about the adequacy or accuracy of the Drawings, Specifications, or other Contract Documents provided or their suitability for their intended use. The GLO expressly disclaims any implied warranty that the Contract Documents are adequate, accurate, or suitable for their intended use.

4.7 Other Information Provided to Contractor.

The GLO may provide Contractor with information, reports, pictures, or other items which are not contained within the Contract Documents, but which Contractor should review and use pursuant to §4.5.

4.8 Requirements for Record Documents.

Contractor shall maintain at each Site one (1) copy of all Drawings, Specifications, Addenda, approved Shop Drawings and Contract modifications, and all Project correspondence. Contractor shall also maintain on Site at all times physical proof that municipal codes and/or third-party inspections have been passed and accepted by the inspecting authority. Contractor shall maintain Drawings and Specifications in good order and marked to record all changes made during construction. Contractor shall give the GLO or its representatives and agents access to all onsite records at all times.

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Article 5 – Construction Bonds

5.1 Performance and Payment Bonds.

Prior to the assignment of any Work, Contractor is required to tender to the GLO performance and payment bonds.

5.1.1. Performance Bond: A Performance Bond is solely for the protection of the state. Contractor may choose to obtain an individual Performance Bond for the full amount of each Project or a blanket Performance Bond in an amount sufficient to provide coverage for any and all Projects assigned to Contractor at any given time. If Contractor opts to provide a blanket Performance Bond, the GLO shall only assign Work up to the amount of the blanket Performance Bond. Contractor may increase the amount of the blanket Performance Bond if Contractor's performance under the Program warrants the assignment of additional Projects. The form of any Performance Bond shall be provided by the GLO, as may be approved by the Attorney General of Texas.

5.1.2 Payment Bond: A Payment Bond is payable to the state and is solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with Contractor or a supplier of required materials or labor. Contractor may choose to obtain an individual Payment Bond for the full amount of each Project or a "blanket" Payment Bond in an amount sufficient to provide coverage for any and all Projects assigned to Contractor at any given time. If Contractor opts to provide a blanket Payment Bond, the GLO shall only assign Work up to the amount of the blanket Payment Bond. Contractor may increase the amount of the blanket Performance Bond if Contractor's performance under the Program warrants the assignment of additional Projects. The form of the Payment Bond shall be provided by the GLO, as may be approved by the Attorney General of Texas.

5.1.3 Corporate sureties authorized to issue bonds shall comply with relevant provisions of the Texas Insurance Code.

5.1.4 Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to the GLO, on the GLO's form. If any bond is for more than ten percent (10%) of the surety's capital and surplus, the GLO may require certification that the company has reinsured the excess portion with one or more reinsurers authorized, accredited, or trusted to do business in the State. A reinsurer may not reinsure for more than ten percent (10%) of its capital and surplus. If a surety upon a bond loses its authority to do business in the State, Contractor shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to the GLO.

5.1.5 Each bond shall be accompanied by a valid Power-of-Attorney (issued by the surety company and attached, signed and sealed with the corporate embossing seal, to the bond) authorizing the attorney-in-fact who signs the bond to commit the company to the terms of the bond, and stating any limit on the amount for which the attorney can issue a single bond.

5.2 Statutory Compliance.

The process of requiring and accepting bonds and making claims thereunder shall be conducted in compliance with the requirements of Chapter 2253 of the Texas Government Code.

5.3 Additional Copies.

The GLO shall furnish copies of a payment bond and the related Contract to any qualified person seeking copies who complies with the requirements of §2253.026, Texas Government Code.

5.4 Licensed Sureties.

Sureties shall be listed on the Department of Treasury's Listing of Approved Sureties, a catalog of companies holding Certificates of Authority as acceptable sureties on Federal bonds and acceptable reinsuring companies (Department Circular 570).

5.5 Claims on Bonds.

Claims on Payment Bonds must be sent directly to Contractor and his surety in accordance with the requirements of §2253.041, Texas Government Code. All Payment Bond claimants are cautioned that no lien exists on the funds unpaid to Contractor under the respective Contract, and that reliance on notices sent to the GLO may result in the loss of rights against Contractor and/or the surety. The GLO is not responsible in any manner to a claimant for collection of unpaid bills and accepts no such responsibility because of any representation by Contractor or the GLO or their agents or employees.

5.6 Property Liens Strictly Prohibited.

Payment Bond claimants are strictly prohibited from placing liens on any Applicant or Homeowner Property(ies), and Contractor is solely responsible for informing claimants of such strict prohibition.

5.7 Removal of Property Lien Filed.

Contractor is solely responsible for the removal, and any associated expense involved therewith, of any lien placed by a claimant under a Payment Bond on the Property of any Applicant or Homeowner, irrespective of the fault or cause of such attachment.

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Article 6 – Insurance Requirements

6.1 Insurance Requirements.

6.1.1 Contractor shall carry insurance in the types and amounts indicated in this Article for the duration of the Contract, which shall include items owned by the GLO in the care, custody, and control of Contractor prior to, during construction, and during the warranty period. Contractor must also complete and file the declaration pages from the insurance policies with the GLO whenever a previously identified policy period expires during the term of the Contract, as proof of continuing coverage. Acceptance of the insurance policy declaration pages by the GLO shall not relieve or decrease the liability of Contractor. Contractor shall update all expired policies prior to submission for monthly payment. Failure to update policies shall be reason for payment to be withheld until evidence for renewal is provided to the GLO.

ARTICLE 6 CONTINUED ON THE FOLLOWING PAGE

6.1.2 Unless otherwise provided for in Supplementary General Conditions, Contractor shall procure, maintain, and provide the minimum insurance coverage in the minimum amounts described below until the Work covered in the Work Order(s) is completed and accepted by the GLO. Coverage shall be written on an occurrence basis by companies authorized and admitted to conduct business in the State of Texas and rated A- or better by A.M. Best Company, or otherwise acceptable to the GLO.

REQUIRED INSURANCE COVERAGE PER WORK ORDER:

TYPES OF COVERAGE		LIMITS OF LIABILITY
a. Worker's Compensation		
Statutory		
b. Employer's Liability		
Bodily Injury by Accident	\$500,000 Ea. Accident	
Bodily Injury by Disease	\$500,000 Ea. Employee	
Bodily Injury by Disease	\$500,000 Policy Limit	
c. Commercial General Liability, including coverage for the following:		
Premises Operations	Combined single limit for bodily injury and property damage of \$1,000,000 per occurrence or its equivalent	
Independent Contractors		
Products/Completed Operations		
Personal Injury		
Contractual Liability		
Explosion, Collapse, Underground		
Broad form property damage, to include fire legal liability		
d. Business Automobile Liability owned/leased, owned, hired		
Combined single limit for Non-Bodily Injury and Property Damage of \$1,000,000 per occurrence or its equivalent.		
e. The GLO's Protective Liability Insurance Policy, naming the State of Texas and its employees as insured with the following limits:		
Bodily Injury	\$1,000,000 Each Occurrence	
	\$1,000,000 Aggregate	
f. Builder's Risk Insurance		
Must have an all risk policy, in the amount equal at all times to 25 percent (25%) of the total compensation due to Contractor under the Work Order. The policy shall include coverage for loss or damage caused by certified acts of terrorism as defined in the Terrorism Risk Insurance Act. The policy shall be issued in the name of Contractor and shall name his Subcontractors as additional insureds. The GLO shall be named as a loss payee on the policy. The builder's risk policy shall have endorsements as follows:		
1. This insurance shall be specific as to coverage and not considered as contributing insurance with any permanent insurance maintained on the present premises. If off Site storage is permitted, coverage shall include transit and storage in an amount sufficient to protect property being transported or stored.		
2. For renovation Projects and or portions of Work contained within an existing structure, the GLO waives subrogation for damage by fire to existing building structure(s), if the builder's risk policy has been endorsed to include coverage for existing building structure(s) in the amount described in the Special Conditions. However, Contractor shall not be required to obtain such an endorsement unless specifically required by the Special Conditions. In this Contract, the aforementioned waiver of subrogation shall not be effective unless such endorsement is obtained.		
g. Flood insurance when specified in Supplementary General Conditions or Special Conditions.		
h. Umbrella coverage when specified in Supplementary General Conditions or Special Conditions.		

THE ABOVE INSURANCE REQUIREMENTS ARE NOT INTENDED TO BE COMPOUNDED WITH CONTRACTOR'S STANDING INSURANCE POLICIES. IF CONTRACTOR ALREADY HAS IN FORCE INSURANCE POLICIES WHICH PROVIDE THE REQUIRED COVERAGE, THERE IS NO NEED TO PURCHASE DUPLICATE COVERAGE FOR THIS PROJECT.

HOWEVER, THE GLO SHALL BE NAMED AS AN ADDITIONAL INSURED, AND THE GLO CONTRACT NUMBER SHALL BE REFERENCED IN THE COMMENTS SECTION OF THE CERTIFICATE(S).

6.1.3 Policies must include the following clauses, as applicable:

6.1.3.1 “This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days’ prior written notice, or ten (10) days for non-payment of premium, has been given to the GLO.”

6.1.3.2 “It is agreed that Contractor’s insurance shall be deemed primary with respect to any insurance or self-insurance carried by the GLO for liability arising out of operations under the Contract with the GLO.”

6.1.3.3 “The GLO, its officials, directors, employees, representatives, and volunteers are added as additional insured as respects operations and activities of, or on behalf of, the named insured and performed under contract with the GLO.” **This is not applicable to the workers’ compensation policy.**

6.1.3.4 “The workers’ compensation and employers’ liability policy will provide a waiver of subrogation in favor of the GLO.”

6.1.4 Workers’ Compensation Insurance Coverage.

6.1.4.1 Definitions.

“[Certificate of coverage](#)” or “[certificate](#)” means a copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance Division of Workers’ Compensation, or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers’ compensation insurance coverage for the person’s or entity’s employees providing services on a Project, for the duration of the Project.

“[Duration of the Project](#)” includes the time from the beginning of the Work on a Project until the Contractor’s/person’s Work on the Project has been completed and accepted by the governmental entity.

“[Coverage](#)” means workers’ compensation insurance meeting the statutory requirements of the Texas Labor Code, §401.011(44).

“[Persons providing services on the Project](#)” or “[subcontractor](#)” includes all persons or entities performing all or part of the services Contractor has undertaken to perform on a Project, regardless of whether that person contracted directly with Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, Subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnished persons to provide services on the Project. “Services” include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a Project. “Services” does not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

6.1.4.2 Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of Contractor providing services on any Project, for the duration of the Project.

6.1.4.3 Contractor must provide a certificate of coverage to the GLO prior to being awarded the contract.

6.1.4.4 If the coverage period shown on Contractor’s current certificate of coverage ends during the duration of the Project, Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

6.1.4.5 Contractor shall obtain from each person providing services on a Project, and provide to the GLO:

- (a) a certificate of coverage, prior to that person beginning Work on the Project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
- (b) no later than seven (7) days after receipt by Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

6.1.4.6 Contractor shall retain all required certificates of coverage in accordance with Section 4.02 of the Contract.

6.1.4.7 Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on a Project.

6.1.4.8 Contractor shall post on each Project Site a notice, in the text, form and manner prescribed by the Texas Department of Insurance Division of Workers' Compensation, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

6.1.4.9 Contractor shall contractually require each person with whom it contracts to provide services on a Project to:

- (a) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the Project, for the duration of the Project;
- (b) provide to Contractor, prior to that person beginning Work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project, for the duration of the Project;
- (c) provide Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
- (d) obtain from each other person with whom it contracts, and provide to Contractor:
 - i) a certificate of coverage, prior to the other person beginning Work on the Project; and
 - ii) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
- (e) retain all required certificates of coverage on file for the duration of the Project and for one (1) year thereafter;
- (f) notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and
- (g) contractually require that each person with whom it contracts, to perform as required by paragraphs (i)-(vii), with the certificates of coverage to be provided to the person for whom they are providing services.

6.1.4.10 By signing this Contract or providing or causing to be provided a certificate of coverage, Contractor is representing to the governmental entity that all employees of Contractor who will provide services on the Project(s)

will be covered by workers' compensation coverage for the duration of the Project(s), that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

6.1.4.11 Contractor's failure to comply with any of these provisions is a breach of Contract by Contractor which entitles the governmental entity to declare the Contract void if Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the governmental entity.

6.1.5 If insurance policies are not written for the amounts specified in §6.1.2, Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of primary coverage.

6.2 Modifications.

The furnishing of the above listed insurance coverage, as may be modified by Supplemental General Conditions or Special Conditions, must be tendered to the GLO prior to the assignment of any Work. Failure to provide the insurance in a timely fashion may result in loss of Contractor's bid bond.

6.3 Copies.

The GLO shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements as they apply to the limits set out in §6.1.2.

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Article 7 – General Responsibilities of the GLO and Contractor

7.1 The GLO's General Responsibilities.

7.1.1 Generally. The GLO is the entity identified as such in the Contract and is referred to throughout the Contract Documents as if singular in number.

7.1.2 Preconstruction Conference. Prior to, or concurrent with, the issuance of Notice to Proceed, a conference will be held attended by the GLO, Contractor, and Subcontractors, as appropriate, to establish a working understanding among the parties as to the Work, the operational conditions at the Project Site(s), and general administration of the Project(s), including communications, schedules, procedures for handling Shop Drawings, and other submittals, processing the Contractor Request for Payment form, maintaining required records, and all other matters of importance to the administration of the Project(s) and effective communications on Site(s).

7.1.3 The GLO's Designated Representative. Prior to the start of construction, the GLO shall designate the GLO's Designated Representative ("GDR"), who shall have express authority to act and bind the GLO to the extent and for the purposes described in the various Articles of the Contract, including responsibilities for general administration of the Contract. Unless otherwise specifically provided for, GDR is the single point of contact between the GLO and Contractor. Notice to GDR, unless otherwise noted, constitutes notice to the GLO under the Contract.

7.1.4 The GLO's Requirements. The GLO shall furnish all surveys describing the physical characteristics, legal description and limitations, Site utility locations, and other information under the GLO's control to Contractor. Necessary actions of the GLO, including processing of payments to Contractor, shall be accomplished with reasonable promptness and subject to Article 13 hereof. The GLO shall pay for all routine testing of materials agreed by the GLO to be required by the Contract Documents, except when for retesting of materials failing the initial test is required, in which instance the cost of re-inspection will be paid for by Contractor; provided, however, any special testing which is specifically required in the scope of Work and listed in a technical section of the Specifications shall be paid by Contractor.

7.1.5 GLO-supplied materials and information. Information, equipment, or services under the GLO's control shall be furnished by the GLO to Contractor with reasonable promptness to avoid delay in orderly progress of the Work.

7.1.6 Other Governing Authorities. The foregoing listing is in addition to the specific duties and authority of the GLO and GDR found in other Articles of the Contract.

7.1.7 Availability of Lands. The Contractor-Homeowner Agreement(s) shall confer all required rights to use the lands upon which the Work is to be performed. Required rights-of-way, easements for access thereto, and such other lands that are designated for use by Contractor shall be provided by the GLO to the extent possible, and the GLO shall identify any encumbrances or restrictions specifically related to use of lands so furnished, with which Contractor must comply. Easements for permanent structures or permanent changes in existing facilities will be provided by the GLO unless otherwise provided in the Contractor-Homeowner Agreement(s) or in the Contract Documents. If the GLO fails to furnish rights of way or easements in a timely manner, Contractor shall document such delay and, if critical path activities in the approved construction schedule are materially impacted, Contractor may furnish to the GLO proof of such delay and impact and may request a corresponding extension to the construction schedule, in accordance with Article 14, Change Orders.

7.2 Limitation on the GLO's and GDR's Duties.

The GLO and GDR will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, technologies, sequences, or procedures of construction or the safety precautions and programs incident thereto. The GLO and GDR are not responsible for any failure of Contractor to comply with laws and regulations applicable to furnishing or performing the Work. The GLO and GDR are not responsible for the failure of Contractor to perform or furnish the Work in accordance with the Contract Documents. The GLO and GDR are not responsible for the acts or omissions of Contractor, or of any Subcontractor, any supplier, or of any other person or organization performing or furnishing any of the Work.

7.3 Contractor's General Responsibilities.

7.3.1 Supervision of Work. Contractor is the person or entity identified as such in the Contract and is referred to throughout the Contract Documents as if singular in number. Contractor shall supervise and direct the Work using the best skill and attention to assure that each element of the Work conforms to the Contract requirements. Contractor shall be solely responsible for all construction means, methods, techniques, safety, sequences, and procedures, and for scheduling and coordinating all portions of the Work under the Contract. Contractor shall be responsible to see that the completed Work complies accurately with the Contract Documents.

7.3.2 Federal Registration. All participants in the CDBG-DR grant program must have a data universal numbering system ("DUNS") number, as well as a Commercial And Government Entity ("CAGE") Code.

7.3.3 Reporting Federal Registration. The DUNS number and CAGE Code must be reported to the GLO for use in various grant reporting documents, and may be obtained by visiting the Central Contractor Registration web site at: for DUNS: <http://fedgov.dnb.com/webform>; and for CAGE, register in the SAM at <https://www.sam.gov/>. Assistance with this web site may be obtained by calling **877-252-2700**.

7.3.4 Assignment of Project. As part of this Contract, based on factors determined by GDR, Contractor will be assigned a Project, under a Work Order, for completion per the agreed costs. With assistance from the CDBG-DR Case Manager/Mobility Counselor, an informational Pre-Construction Conference between Contractor and Homeowner will be conducted, during which meeting Contractor and Homeowner will execute a Contractor-Homeowner Agreement and a Pre-Construction Conference Report and Notice to Proceed (GLO Form 11.02) for the Project. The forms will be provided by the GLO either on its website at <http://recovery.texas.gov/resources/housing/index.html> or as an attachment to the Contract. When the Contractor-Homeowner Agreement and Form 11.02 are fully executed, the Project will be fully authorized under the relevant Work Order and will be subject to both this Contract, the Contractor-Homeowner Agreement, and the Form 11.02.

7.3.5 Due Diligence Responsibility. All investigation into ownership of the Property is Contractor's responsibility. Contractor is solely responsible for verifying that Homeowner's residence, once complete and affixed to the Property, does not violate or interfere with any applicable recorded instrument or governmental regulation affecting the Property. The GLO has not obtained an abstract of title, title insurance policy, title commitment, or similar item, and the GLO makes no representations or warranties as to title to, or encumbrances upon, the Property.

7.3.6 Information. Contractor is responsible for providing open channels of communication among Homeowner, the GLO, GDR, and Inspectors including, but not limited to, informing Homeowner of what to expect during the construction phase.

7.3.7 Rental Assistance. Contractor is responsible for providing rental assistance to Homeowner if construction is not completed within one hundred twenty (120) days of the Notice to Proceed, regardless of the cause of the delay, according to §23.2.

7.3.8 Utilities. Contractor shall be responsible for notifying Homeowner when to disconnect and reconnect utilities and for any fees related thereto. Contractor is also responsible for reimbursing Homeowner for utility costs incurred while rehabilitation or repair work is performed.

7.3.9 Project Administration. Contractor shall provide Project administration in accordance with provisions outlined in the Pre-Construction Conference.

7.3.10 Contractor's Superintendent. Contractor shall employ a competent resident superintendent who shall be in attendance at the Project Site during the progress of the Work and must be present at all scheduled Site visits performed by the GLO or the GDR and any other inspection. The superintendent shall be satisfactory to the GLO and shall not be changed except with the written approval of the GLO. The superintendent shall represent Contractor at the Site and shall have full authority to act on behalf of Contractor including, but not limited to, signature authority for progress payments and Change Orders. All communications given to the superintendent shall be binding on Contractor. All oral communications affecting Contract Time, Project Sum, and interpretation of the Contract Documents will be confirmed in writing to the GLO.

7.3.11 Labor. Contractor shall provide competent, suitably qualified personnel to survey, lay out, and construct the Work as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site(s).

7.3.12 Services, Materials, and Equipment. Unless otherwise specified in the Supplemental General Conditions, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work. Contractor shall provide, without extra charge, all incidental items required as a part of the Work, even though not particularly specified or indicated in the Contract.

7.3.13 No Substitutions Without Approval. Contractor may make substitutions only with the consent of the GLO, within thirty (30) days from the Notice to Proceed, and after evaluation and recommendation by the GLO and in accordance with a Change Order. If Contractor has good reason for objecting to the use of a material, appliance, or method of construction as shown or specified, it shall register its objections with the GLO in writing; otherwise, it shall proceed with the Work with the understanding that a satisfactory job is required.

7.3.14 Documents and Samples at the Site. Contractor shall maintain at the Site(s) for the GLO one (1) record copy of the Drawings, Specifications, addenda, Change Orders, and other modifications, in good order and marked currently to record field changes and selections made during construction; and one (1) record copy of approved Shop Drawings, Samples, and similar required submittals. These shall be available to the GLO and shall be delivered to GDR for submittal to the GLO upon completion of the Work. Contractor shall also maintain on Site at all times physical proof that municipal codes and/or third-party inspections have been passed and accepted by the inspecting authority.

7.3.15 Non-Compliance. If any Work is identified by either the GLO and/or GDR as not being in compliance with HUD Program requirements or the Contract Documents, GDR shall communicate the finding to Contractor and the GLO and such Work shall be corrected by Contractor at its expense. Contractor is not relieved from compliance with all requirements of the Contract Documents where such requirements are not judged at the time of observation of the Work due to Work sequences by Contractor or the lack of time to judge the performance characteristics of the particular Work item.

7.3.16 Subcontractors. Contractor shall not employ any Subcontractor, supplier or other person or organization, whether initially or as a substitute, against whom the GLO may have reasonable objection. The GLO will communicate such objections in writing. If a rejection causes a change to the Contract Sum, Contractor may file a Contractor-initiated claim under Article 14, Change Orders. Contractor shall not be required to employ any Subcontractor, supplier, or other person or organization to furnish any of the Work to whom Contractor has reasonable objection. Contractor will not substitute Subcontractors without the approval of the GLO.

7.3.16.1 Contractor shall enter into written agreements with all Subcontractors and suppliers which specifically bind Subcontractors and suppliers to the terms and conditions of the Contract Documents for the benefit of the GLO.

7.3.16.2 Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, suppliers, and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor. Contractor shall require all Subcontractors, suppliers, and such other persons and organizations performing or furnishing any of the Work to communicate with the GLO through Contractor.

7.3.17 Continuing the Work. Unless otherwise directed by the GLO in writing, Contractor shall carry on the Work and adhere to the Project schedule during all disputes, disagreements, or alternative resolution processes with the GLO. No Work shall be delayed or postponed pending resolution of any disputes, disagreements, or processes, except as directed by the GLO in writing.

7.3.18 Acts and Omissions of Contractor, Subcontractors and employees. Contractor shall be responsible for acts and omissions of its employees and its Subcontractors, their agents and employees. The GLO may, in writing, require Contractor to remove from the Work any of its or its Subcontractors' employees that the GLO and/or GDR finds to be careless, incompetent, or otherwise objectionable.

7.3.19 INDEMNIFICATION OF THE GLO. CONTRACTOR COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, THE GLO AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS, AND REPRESENTATIVES OF THE GLO, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON THE GLO DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT, INCLUDING ANY ACTS OR OMISSIONS OF CONTRACTOR, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF CONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OF PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF THE GLO, OFFICERS OR EMPLOYEES, SEPARATE CONTRACTORS OR ASSIGNED CONTRACTORS, IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE. IN THE EVENT CONTRACTOR AND THE GLO ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

7.3.19.1 THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

7.3.19.2 CONTRACTOR SHALL PROMPTLY ADVISE THE GLO IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE GLO OR CONTRACTOR KNOWN TO CONTRACTOR RELATED TO, OR ARISING OUT OF, CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT.

7.3.19.3 THE GLO RESERVES THE RIGHT TO PROVIDE ITS OWN DEFENSE TO ANY SUIT OR CLAIM OF INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE OR SERVICE MARK, OR ANY OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHT, IN WHICH EVENT CONTRACTOR SHALL INDEMNIFY AND SAVE HARMLESS THE GLO FROM ALL COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND JUDGMENTS, ARISING FROM SUCH DEFENSE.

7.3.20. Site Conditions. Contractor will operate and maintain operations areas and associated storage areas at each Site of the Work in accordance with the following:

7.3.20.1 All Contractor operations, including storage of materials and employee parking upon the Work Site, shall be confined to areas designated or agreed to by the GLO.

7.3.20.2 Contractor shall at all times keep construction areas, including storage areas used by it, free from the accumulation of water, waste materials, or rubbish during performance of the Work. During the period of construction, and not less frequently than once a week, Contractor shall remove from the Site any and all waste materials, rubbish, and trash, and shall dispose of such waste materials, rubbish, and trash off the property of the GLO. Prior to Contractor's requested date for a Final Inspection, Contractor shall remove any and all remaining equipment from the Site and shall leave the premises in a clean, neat, and workmanlike condition satisfactory to the GLO.

7.3.20.3 Contractor will use only established roadways or construct and use such temporary roadways as may be authorized by the GLO. Load limits of vehicles shall not exceed the limits prescribed by appropriate regulations of law. Contractor will provide protection to road surfaces, curbs, sidewalks, trees, shrubbery, sprinkler systems, drainage structures and other like existing improvements to prevent damage, and any damage thereto shall be repaired by and at the expense of Contractor. The GLO may restrict Contractor's entry to the Site to specifically assigned entrances and routes.

7.3.20.4 Contractor may erect temporary buildings at its expense, which shall remain its property. Contractor shall remove such buildings and associated utilities service lines upon completion of the Work, unless Contractor requests to abandon such buildings and utilities in place, and the GLO provides written consent.

7.3.21 Royalties and Patents. Contractor shall pay all royalties and license fees and defend all suits or claims for infringement of any patent rights and shall hold the GLO and its representatives harmless from loss on account thereof.

7.3.22 Other Governing Authorities. The duties listed above are in addition to the duties, responsibilities, and activities to be undertaken by Contractor as specified throughout the Articles of the Contract.

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Article 8 – Additional Contractor Responsibilities when the GLO Awards Separate Contracts

8.1 Separate Contracts.

The GLO reserves the right to award other contracts in connection with other portions of the Project(s) under these or similar contract conditions. The GLO reserves the right to perform operations related to the Project(s) with the GLO's own forces. Each separate contractor shall undertake to indemnify the GLO as set forth in §§7.5.12 and 7.5.19.

8.1.1 Generally. When separate contracts are awarded for different portions of the Project(s), "Contractor" in the Contract Documents in each case shall be the Contractor who signs each separate Contract. Contractor shall cooperate with the separate contractors and the GLO's own forces. Contractor shall properly connect and coordinate its Work with the work of the separate contractors as defined in these Contract Documents. If any part of Contractor's Work depends for proper execution or proper results on the work of any of the separate contractors, Contractor shall inspect and promptly report in writing to GDR any visually apparent discrepancies or defects found in such other work that render it unsuitable for such proper execution and results. Failure of Contractor to so inspect and report the visually apparent discrepancies or defects shall constitute an acceptance of the separate contractor's work as fit and proper to receive Contractor's Work, except as to defects which may develop in the separate contractor's work after the execution of Contractor's Work.

8.1.2 Delay or Damage. Should Contractor cause delay or damage to the Work or property of any separate contractor on a Project, Contractor shall, upon due written notice, endeavor to settle with the separate contractor by agreement. If such separate contractor does not settle with Contractor, the GLO shall initiate a Dispute Resolution process and each party to the dispute shall be financially accountable for any damages or loss based on their proportionate fault determined by the Dispute Resolution process.

8.1.3 Access. Contractor shall afford the GLO, the separate contractors, and the GLO's own forces, as necessary, reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work.

8.1.4 The GLO's Rights. The GLO reserves the right to make essential installations that are pertinent to the early use of a building or Project. Within this right, the GLO may let other contractors make the installations or may do such work with its own labor forces and materials. Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or supplier, or by the GLO's employees. Contractor shall cooperate to the end that the GLO may realize complete functioning of the building or Project on the day of Final Completion.

8.2 Coordination.

The GLO shall provide for coordination of the activities of the GLO's own forces and of each separate contractor with the Work of Contractor, who shall cooperate with them. Contractor shall participate with other separate contractors and the GLO in reviewing the respective construction schedules, when directed to do so. Contractor shall make any revisions to his construction schedule as necessary, after receiving the GLO's instruction.

8.3 Liability.

The GLO shall be reimbursed by Contractor for costs incurred by the GLO which are payable to a separate contractor because of delays, improperly timed activities, or defective construction by Contractor. The GLO shall be responsible to Contractor for costs incurred by Contractor because of delays, improperly timed activities, damage to the Work, or defective construction by a separate contractor. Contractor may make claim for such amounts as outlined in Article 14, Change Orders.

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Article 9 – Contractor Responsibility for Jobsite Safety

9.1 Generally.

Unless otherwise specified in the Specifications, Contract Documents, or Supplementary General Conditions, Contractor shall be responsible for initiating, maintaining, supervising, and enforcing all safety precautions and programs in connection with the Work. It shall be the duty and responsibility of Contractor and all of its Subcontractors to be familiar and comply with all requirements of the Occupational Safety and Health Act of 1970 (OSHA), Public Law 91-596, 29 U.S.C. §§ 651 et. seq., and all amendments thereto, and to enforce and comply with all of the provisions of the Act. Contractor shall comply with all applicable laws and regulations of any public body having jurisdiction for safety of persons or property to protect them from damage, injury, or loss and shall erect and maintain all necessary safeguards for such safety and protection.

9.1.1 Notification. Contractor shall notify owners of adjacent property and of underground facilities, and utility owners when prosecution of the Work may affect them or their facilities, and shall cooperate with them in the protection, removal, relocation, and replacement of their facilities and/or utilities.

9.2 Emergency.

In any emergency affecting the safety of persons or property, Contractor shall act reasonably to prevent threatened damage, injury, or loss. Contractor shall give GDR and the GLO prompt notice if Contractor believes that any significant changes in the Work or variations from Contract Documents have been caused by its emergency response. Any additional compensation or extension of time claimed by Contractor resulting from emergency Work shall be considered in accordance with Article 14, Change Orders.

9.2.1 Required Response. Authorized agents of Contractor shall respond immediately to call out at any time of day or night when circumstances warrant the presence of Contractor to protect the Work or adjacent property from damage, restriction, or limitation, or to take such action pertaining to the Work as may be necessary to provide for the safety of the public. Should Contractor fail to respond, the GLO is authorized to direct other forces to take action as necessary and the GLO may deduct any cost of remedial action from the funds due Contractor under the Contract.

9.3 GDR Notification.

In the event of an incident or accident involving outside medical care or a lost time injury to an individual on or near the Work, Contractor shall notify GDR as soon as possible within twenty-four (24) hours of the event. Contractor shall record the location of the event and the circumstances surrounding the event, by using photography or other means, and shall gather witness statements and other documentation that describes the event. Contractor shall supply GDR and the GLO with a set of incident investigation documents no later than thirty-six (36) hours after the occurrence of the event. In the event of a catastrophic incident, defined as one (1) fatality or three (3) workers hospitalized, the scene of the incident shall be barricaded and left intact until all investigations are completed.

9.4 Environmental Safety and Control.

Upon encountering any previously unknown potentially hazardous material, or other materials potentially contaminated by hazardous material, Contractor shall immediately stop Work in and secure the affected area and notify GDR. All subcontracts shall expressly bind Subcontractors to the same duty. On receiving such notice, GDR shall promptly engage qualified experts to make such investigations and conduct such tests as may be reasonably necessary to determine the existence or extent of any environmental hazard. As soon as possible upon completion of this investigation, GDR shall issue a written report to Contractor identifying the material or materials found and indicating any necessary steps to be taken to treat, handle, transport, or dispose of the material. The GLO may hire third-party contractors to perform any or all such steps. Should compliance with GDR's instructions result in an increase in Contractor's cost of performance, or delay the Work, an adjustment in the Contract Sum or time may be claimed by Contractor pursuant to the provisions of Article 14, Change Orders.

9.4.1 Notification. Contractor shall be responsible for coordinating the exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the site in connection with laws and regulations.

9.5 Trenching Safety.

Trenching safety precautions, applicable only if a Project requires excavation that exceeds a depth of five (5) feet, shall comply with the following:

9.5.1 Trenching Plan. Contractor will submit a trenching plan to the GLO within fifteen (15) days, if required. The plan will be approved and sealed by a professional engineer registered in the State of Texas and employed by Contractor. Said engineer cannot be anyone who is employed on a Project by the GLO.

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Article 10– Materials and Workmanship; Licensing, and Testing

10.1 Materials and Workmanship.

Contractor warrants and guarantees that all Work shall be executed in a good workmanlike matter in accordance with the Contract Documents, complete in all parts and in accordance with approved practices and customs. Unless otherwise specified, all materials and equipment incorporated into the Work under Contract shall be new.

10.2 Contractor’s Warranty of Workmanship.

10.2.1 Limits on Warranty. Contractor’s Warranty and guarantee hereunder excludes defects or damage caused by:

- a. Abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, suppliers, or any other individual or entity for whom Contractor is responsible, or
- b. Normal wear and tear under normal usage.

10.2.2 Events Not Affecting Warranty. Contractor’s obligation to perform and complete the Work in a good and workmanlike manner in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor’s obligation to perform the Work in accordance with the Contract Documents:

- a. Observations by the GLO;
- b. Recommendations to pay any progress or final payment;
- c. The issuance of a certificate of Final Completion or any payment by the GLO to Contractor under the Contract Documents;
- d. Use or occupancy of the Work or any part thereof by the GLO;
- e. Any acceptance by the GLO or any failure to do so;
- f. Any review of a Shop Drawing or sample submittal; or
- g. Any inspection, test, or approval by others.

10.3 Routine Testing.

If the Contract Documents, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any Work to be inspected, tested, or approved, Contractor shall give the GLO timely notice of its readiness and of the date arranged so the GLO or the GDR may observe such inspection, testing, or approval. Should the material or Work fail to comply with the requirements of the Contract Documents, Contractor shall bear all costs of the testing, inspection, or approval, as well as the cost of replacement of unsatisfactory material or Work as provided by Article 12; otherwise, the GLO shall bear such costs and an appropriate Change Order shall be issued, per Article 14.

10.3.1 Responsibility. The costs of routine testing shall be borne by the GLO, but Contractor shall be responsible for the cost of material tested. When directed by the GLO, demonstration of a material’s compliance with the specifications shall be made by one of the following:

- a. Manufacturer’s certificate of compliance;
- b. Mill certificate;
- c. Testing laboratory certification; or
- d. Report of actual laboratory test from the GLO’s laboratory or from a laboratory satisfactory to the GLO. Samples tested shall be selected by or in the presence of the GLO and the method of testing shall comply with the professional societies’ standard specifications.

10.3.2 Necessity. Materials incorporated into the Project(s) may be subject to routine tests as specified or as deemed necessary by GDR the GLO to ensure their compliance with the specifications. Materials to be tested may include, but are not limited to, the following:

- a. Concrete – Primary mix design, slump tests and cylinder compression tests.
- b. Steel – Tensile tests.
- c. Welds – Field inspection and X-ray equipment.
- d. Soils – Subsoil investigation, physical analysis, and compaction tests.
- e. Pavement – Physical analysis and compaction tests.
- f. Roofing – Samples cut from in-place roof.

Any other basic materials for which standard laboratory test procedures have been established may also be included if doubt as to their quality should arise. Any testing, as described, will be done at the discretion of the GLO who will bear all costs. Contractor shall be held responsible for providing samples of sufficient size for test purposes and for cooperating with the GLO or designee in obtaining and preparing samples for tests. All tests will be in accordance with standard test procedures and will be performed by a laboratory selected by the GLO. Results of all tests will be provided to the GLO and Contractor.

10.3.2.1 Not included in tests provided by the GLO are:

- a. Any test of basic material or fabricated equipment offered as a substitute for a specified item on which a test may be required in order to prove its compliance with the Specifications, which testing shall be paid for by Contractor.
- b. Routine or preliminary tests on mechanical systems required to ensure their proper installation and operation, prior to final testing and balancing, and any other requirements described in other Contract Documents or specifications shall be paid for by Contractor. Final testing and balancing shall be paid for by Contractor and be performed by an independent, certified testing and balancing firm approved by the GLO.
- c. Testing required to certify the acceptability of repairs to damaged materials or equipment shall be paid for by Contractor.

10.3.3 Compliance. Should any of the routine tests indicate that a material does not comply with the job requirements, the burden of proof of compliance shall be with Contractor, subject to the following conditions:

- a. Contractor may select the laboratory for further testing, but selection must be approved by the GLO;
- b. Quality and nature of tests will be determined by the GLO;
- c. All tests shall be taken in the presence of the GLO or GDR;
- d. If tests prove that the material complies with specifications, the laboratory fees will be paid by the GLO. If noncompliance is proved, laboratory fees will be paid by Contractor; and
- e. Proof of noncompliance will make Contractor liable for any corrective action which the GLO feels is prudent, including complete removal and replacement of defective material.

10.3.3.1 All subsequent tests on original or replaced materials conducted as a result of prior failure will be paid by Contractor.

10.3.4 Special Testing. The GLO may require special inspection, testing, or approval of material or Work in addition to that which may be specified for compliance with requirements of the Contract Documents. Upon direction by the GLO for additional special testing, Contractor shall promptly arrange for such special testing, inspection or approval procedure. The costs of special testing shall be at the GLO's expense except, if the materials fail, Contractor shall pay the expense; provided however, that the entire cost of any additional testing, whether routine or special, required because of failure of a prior test shall be borne by Contractor.

10.4 Opportunity to Review.

If any Work (or the Work of others) that is to be inspected, tested, or approved is covered by Contractor without providing the GLO, GDR, or Inspector an opportunity to review based on written notification as set forth in §12.2.3 or if any Work is covered contrary to the written request of the GLO or GDR or as specifically indicated elsewhere in the Contract Documents, the covered Work must, if requested by the GLO or GDR, be uncovered and recovered at Contractor's expense, except as set forth in §12.3.2.4.

10.5 Contractor's Testing.

Nothing contained herein is intended to imply that Contractor does not have the right to have tests performed on any material at any time for his own information and job control so long as the GLO is not charged for costs or forced to rely upon such tests when appraising quality of materials. Any modification of, or elaboration on, these test procedures which may be included for specific materials under their respective specification sections shall take precedence over these procedures and all testing required in the technical specification sections shall be the responsibility of Contractor to coordinate and pay for.

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Article 11 – Shop Drawings and Submittals

11.1 Intent of Contract Documents.

It is not the intent of the Specifications or Contract Documents to limit materials, equipment, or fixtures to the product of any particular manufacturer. Where definite materials, equipment, and/or fixtures have been specified by name, manufacturer or catalog number, it has been done to set a definite standard and a reference for comparison as to quality, application, physical conformity, and other characteristics. It is the GLO's intention to not discriminate against or prevent any dealer, jobber, or manufacturer from furnishing materials, equipment, and/or fixtures which meet or exceed the characteristics of the specified items. If Contractor wishes to substitute any materials, equipment, and/or fixtures which have been specified by name, manufacturer, or catalog number, Contractor must submit a request for substitution in writing to the GLO before utilizing said materials, equipment, and/or fixtures. Substitution of materials, equipment, and/or fixtures shall not be made without prior written approval from the GLO.

The GLO shall be the final judge of whether a proposed substitution meets the required characteristics of a specified item and such decisions of the GLO shall be final and conclusive.

11.2 Unauthorized Substitutions at Contractor's Risk.

All proposed substitution of materials, equipment, or fixtures shall be presented through the submittal process and must be approved by the GLO, even if the proposed substitutions would result in no additional charge. Contractor shall be financially responsible for any additional costs or delays resulting from using materials, equipment, or fixtures other than those specified or approved by the GLO as a substitute item and shall reimburse the GLO for any increased design or contract administration costs resulting from any unauthorized substitutions.

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Article 12 – Quality Control Reviews, Condemnations, and Required Inspections

12.1 Contractor Quality Control.

Contractor is responsible for controlling the quality of the Work as set forth in the Contract Documents.

12.2 GLO Quality Assurance Reviews.

12.2.1 Site Visits. The GLO, the GDR and/or other GLO agents and consultants will make periodic visits to the Site(s) to familiarize themselves with the progress and quality of the Work and conduct inspections and tests to determine if the Work is proceeding in accordance with the Contract Documents. Contractor shall provide sufficient, safe and proper facilities at all reasonable times for observation and/or inspection of the Work by the authorized representatives of the GLO.

12.2.2 No Cover Up Without Notification. Contractor shall not cover up any Work with finishing materials or other building components prior to providing the GLO an opportunity to perform an inspection of the Work by the GLO, GDR, or an Inspector. If corrections of the Work are required for approval, cover up shall be delayed until another inspection can be made and approval is granted by the Inspector.

12.2.3 Requirement to Notify. Contractor shall be responsible for providing notice of forty-eight (48) hours to the GLO of the anticipated need for a cover up inspection. If the GLO fails to respond to the requested inspection within forty-eight (48) hours, Contractor may proceed with the particular cover up work identified in the notification. This notice requirement shall not be reduced or waived by the GLO's ability to respond in less time.

12.3 Condemnation and Removal of Defective Work.

12.3.1 Inspection of Work. GDR and the GLO have the authority to reject and condemn Work which does not meet the requirements of the Contract and to order such Work removed and replaced in accordance with this §12.3. The approval of a Work item by GDR and/or the GLO does not relieve Contractor from compliance with the Contract Documents where such requirements are not judged at the time of observation of the Work due to Work sequences by Contractor or the lack of time to judge the performance characteristics of the particular Work item, or where the particular Work item is part of a system that has not been fully completed and reviewed for overall operation.

12.3.2 Determination of Acceptability. GDR and/or the GLO shall interpret the Contract requirements and shall be the final judge of the acceptability of the Work under the Contract Documents. If any materials or Work furnished under this Contract are condemned or rejected by the GLO, Contractor shall, after notice from the GLO, proceed to remove materials, whether worked or un-worked, and to take down all portions of the Work condemned. Contractor shall make good all Work damaged or destroyed by the removal and replacement process.

12.3.2.1 Contractor shall, without charge or assessment against any Contract contingency or allowance, replace any material or correct any workmanship found by the GLO or GDR not to conform to the Contract requirements, unless in the public interest the GLO consents in writing to accept such material or workmanship with an appropriate adjustment in the Contract Sum. Contractor shall promptly correct all Work rejected by the GLO or GDR as defective or as failing to conform to the Contract Documents whether observed before or after the Date of Final Completion or final inspection and acceptance; and whether or not fabricated, installed, or completed. Contractor shall bear all costs of correcting such rejected Work. The costs of such corrective Work shall also include reimbursement by Contractor to the GLO of the costs incurred by the GLO for the extra services of required in performing its responsibilities relative to such corrective Work.

12.3.2.2 If Contractor does not promptly complete the Work, replace rejected material, or correct rejected workmanship, the GLO may (1) by separate contract or otherwise, replace such material or correct such workmanship and charge the cost thereof to Contractor, or (2) terminate Contractor's Contract in accordance with Article 20, Termination and Suspension of the Contract Prior to Completion.

12.3.2.3 If any portion of the Work is concealed by subsequent Work without notification to the GLO as set forth in §12.2.3, contrary to the instructions of the GLO or GDR, or to the requirements specifically expressed in the Contract Documents, it must be uncovered for observation and recovered at Contractor's expense.

12.3.2.4 If any other portion of the Work which the GLO or GDR has not specifically requested or is not specifically indicated elsewhere in the Contract Documents to observe prior to being covered, has been covered, either may request to see such Work and it shall be uncovered by Contractor. If such Work is found to be in accordance with the Contract Documents, the cost of uncovering and recovering shall, by appropriate Change Order, be charged to the GLO. If such Work is found not to be in accordance with the Contract Documents, Contractor shall pay such costs for extra services related to such non-complying Work.

12.3.3 Protest of Condemnation. Upon notice of condemnation, Contractor may request to prove to the GLO or the GDR, at Contractor's sole cost, that the Work should be accepted because it meets performance and other relevant standards. Contractor shall have ten (10) working days from receipt of the notice to present documentation to prove compliance. The GLO shall respond to Contractor's showing of proof in writing within fifteen (15) working days of receipt of Contractor's documentation.

12.4 Required Inspections – Purpose.

Inspection by the GLO and/or the GDR is for the purpose of determining the completion of the Work and does not relieve Contractor of its overall responsibility for completing the Work in a good and workmanlike fashion, in compliance with the Contract Documents. Failure of the GLO or GDR to identify Work that is not in compliance with the Contract Documents, or which is defective in operation or workmanship, or acceptance of the Work with Punch List items left incomplete, does not constitute a waiver of such a defect or of the GLO's rights under the Contract Documents or relieve Contractor of its warranties contained in Article 16.

12.4.1 Rehabilitation Progress Inspections. The GLO and/or the GDR will perform Site visits for each Rehabilitation Project at the request of Contractor at pre-determined stages during critical construction activities. These visits will occur after all required municipal code enforcements, and/or third-party inspections have taken place. Contractor will submit a written request via electronic mail for a Site visit to occur no earlier than forty-eight (48) hours from the time of request. Contractor shall have a representative on Site and shall provide documentation of passed code and/or third-party inspections performed. The GLO and/or the GDR will then observe the Work that has been performed to ensure that it is complete and accurate according to the Plans and Specifications. Unless otherwise specified by the GLO, in addition to the Final Inspection, there shall be only one (1) Progress Inspection for rehabilitation Projects, which will take place at the fifty percent (50%) level of construction completion.

12.4.2 Reconstruction and New Construction Progress Inspections. The GLO will perform Site visits for each reconstruction or new construction Project at the request of Contractor periodically during critical construction activities. Site visits will occur at the fifty percent (50%) stage of construction completion. These visits will occur after all required municipal code enforcements, and/or third-party inspections have taken place. Contractor will submit a written request via electronic mail for a Site visit to occur no earlier than forty-eight (48) hours from the time of request. Contractor shall have a representative on Site and shall provide documentation of passed code and/or third-party inspections performed. The GLO and/or the GDR will then observe the Work that has been performed to ensure that it is complete and accurate as per the Plans and Specifications.

12.4.3 Final Inspection. After construction has been completed on a Project, Contractor will request a final Site visit to guarantee that all Work has been satisfactorily completed according to the Contract Documents and appropriate state and local codes and standards, the work has been Green Building Certified, and that the Housing Unit meets minimum housing standards. The final Site visit is to confirm that all Work has been completed and been accepted by building code enforcement and-or third-party inspectors, and includes all items on the punch list, as applicable. Contractor must provide all warranties prior to the Inspector signing a Final Inspection form. In addition, Contractor must provide an executed affidavit stating that each person who performed Work or provided materials for the activity has been paid in full prior to requesting Final Payment. If there are outstanding funds owed to third parties, Contractor must list in the affidavit the amount owed, and the name, address, and phone number of the entity to whom funds are owed, and affirm when payment will occur for each entity listed.

12.4.4 Repeat Inspections. Contractor must have all Work completed and documents ready prior to requesting an inspection. If the GLO and/or the GDR observes any fault(s) during inspection, Contractor will be informed of the fault(s) and be provided a written report of findings. When Contractor has remedied the fault(s), Contractor may request a repeat inspection to be performed, no sooner than forty-eight (48) hours from the time of the request. **Contractor is**

responsible for all costs associated with additional inspections due to previously inspected items which are deemed outstanding or improperly completed, including costs associated with reprocessing for repeat inspections. Furthermore, any additional expenses caused by repeat inspections or repeat reviews, if any, shall be defined by the GLO and communicated to Contractor by memoranda, and must be satisfied by Contractor prior to receiving Final Payment hereunder.

12.4.5 Corrective Actions. If Contractor is notified that any inspection by the GLO and/or the GDR has uncovered any non-compliance issues, Contractor shall correct such issues within seven (7) calendar days. Contractor shall maintain a detailed record of every non-compliance and corrective action taken. Such non-compliance includes documentation of any and all pre-existing damages related or unrelated to the applicable disaster event, and Homeowner must Sign Off such documentation. If Homeowner refuses to Sign Off within fourteen (14) calendar days, Contractor may request an inspection of the completed Work by the GLO and/or the GDR. If the GLO and/or the GDR determines that the corrective action has been completed, the GLO may issue a Sign Off for purposes of this Section.

12.4.6 Inspection by the GLO and Others. The U.S. Department of Housing and Urban Development, the Texas General Land Office, GDR, and any of their designees shall have the right to inspect all Work performed under the Work Order. Contractor and Homeowner(s) will take all steps necessary to assure that the U.S. Government, the GLO, and GDR or any of their designees are permitted to examine and inspect the Work, the Property, and all contracts, material, equipment, payrolls, and conditions of employment pertaining to their Work, including all relevant data and records. By such inspection, the U.S. Government, the GLO, and GDR assume no responsibility to Homeowner(s) for defective material or Work under this Contract, or to either party for any breach of the Contract by the other.

12.5 Follow-up Inspections.

12.5.1 Follow-up Progress Inspections. If, on the basis of the Progress Inspection, GDR or the GLO determines that the Work is not complete, GDR or the GLO shall give Contractor written notice thereof, informing Contractor what Work was found to be incomplete, out of compliance with the Contract Documents, or defective in operation or workmanship, and setting a time by which incomplete or defective Work is to be completed. Contractor shall complete or correct all Work so designated and shall, at the discretion of the GLO, either request a follow-up Progress Inspection or provide to the GLO for approval documented proof of remedy no sooner than forty-eight (48) hours from completion of the additional Work.

12.5.2 Follow-up Final Inspections. If, on the basis of the Final Inspection, GDR or the GLO determines that the Work is not complete according to the Contract Documents, or that the Work required by the Punch List has not been performed, GDR or the GLO shall give Contractor written notice thereof, informing Contractor what Work was found to be incomplete, out of compliance with the Contract Documents, or defective in operation or workmanship, and setting a time by which incomplete or defective Work is to be completed. Contractor shall complete or correct all Work so designated and shall, at the discretion of the GLO, either request a follow-up Progress Inspection or provide to the GLO for approval documented proof of remedy no sooner than forty-eight (48) hours from completion of the additional Work.

12.5.3 Financial Liability for Follow-up Inspections. The cost of any and all follow-up inspections deemed necessary by GDR or the GLO because the Work was not ready or completed satisfactorily for one or more required inspections shall be borne by Contractor, and payable according to §12.4.4, Repeat Inspections. The GLO reserves the right to deduct any unpaid follow-up inspection fees from Contractor's next requested payment. Work added to the Contract by Change Order after Final Inspection shall not be considered as corrective Work for purposes of determining timely completion or assessing the cost of additional inspections.

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Article 13 – Interim Contract Payments, State Funding, Recapture, Overpayment

13.1 Interim (or Periodic) Contract Payments.

13.1.1 Requesting Payment. Contractor may obtain reimbursement under a Work Order for Work properly performed on a Project by submitting to a designated GLO vendor or the GDR the Building Contractor's Request for Payment, GLO Form 11.04, along with all required supporting documentation, as shown in §13.2.1 below. Form 11.04 will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>.

13.1.2 New Construction and Reconstruction Payment Schedule. The GLO agrees to authorize payment to Contractor in accordance with the following schedule:

- a. Payment for fifty percent (50%) of the Project Sum - with fifty percent (50%) of the Work having been completed and satisfactory Progress Inspection by the GLO, GDR or other GLO-authorized Inspector.
- b. Payment for forty percent (40%) of the Project Sum - upon completion of the Work, and satisfactory Final Inspection by the GLO, the GDR, or other GLO authorized Inspector, including all Punch List items.
- c. Payment for the final ten percent (10%) of the Project Sum, discussed in §13.1.4, Retainage, may be made upon completion of the Work, and satisfactory Final Inspection by the GLO, GDR, or other GLO-authorized Inspector, including all Punch List items. **Final Payment is discussed in more detail in Article 15.**

13.1.3 Rehabilitation Payment Schedule. The GLO agrees to authorize payment to Contractor in accordance with the following schedule:

- d. Payment for fifty percent (50%) of the Project Sum - with fifty percent (50%) of the Work having been completed and satisfactory Progress Inspection by the GLO, the GDR, or other GLO-authorized Inspector.
- e. Payment for forty percent (40%) of the Project Sum - upon completion of the Work, and satisfactory Final Inspection by the GLO, the GDR, or other GLO-authorized Inspector, including all Punch List items.
- f. Payment for the final ten percent (10%) of the Project Sum, discussed in §13.1.4, Retainage, may be made upon completion of the Work, and satisfactory Final Inspection by the GLO, the GDR, or other GLO-authorized Inspector, including all Punch List items. **Final Payment is discussed in more detail in Article 15.**

13.1.4 Retainage. The GLO shall withhold as retainage ten percent (10%) of the Project Sum. Upon satisfaction of all aspects of the Project requirements, Contractor may seek reimbursement of any amounts retained, and any other amounts that may be recoverable under the terms of the Contract. Contractor's request for payment of amounts retained must include, as a minimum, the following documentation:

- a. Building Contractor's Request for Payment (GLO Form 11.04), signed by Contractor and Homeowner;
- b. Contractor's invoice with itemization of costs;
- c. Signed and notarized Lien Waiver Affidavit (GLO Form 11.24) and Exhibit A;
- d. Final Inspection Checklist (GLO Form 11.03), complete with appropriate signatures in Sections I, II and III;
- e. Insurance Declaration Page(s) covering the subject property, if applicable; and
- f. TREC inspection report.

The supporting documentation and additional documents in this section are required with all retainage-related Contractor requests for payment. All referenced numbered forms will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>. Required documentation may change from time to time; **it is the sole responsibility of Contractor to be aware of and obtain information related to any additional requirements for supporting documentation.**

13.2 Documentation Required – Progress Payments.

Progress Payments will be made to Contractor for Work performed and materials in place or suitably stored and protected on Sites, or as otherwise agreed to by the GLO and Contractor, in accordance with CDBG-DR Program rules as defined by the GLO, and according to the schedule in §13.2.1, below.

13.2.1 Documentation. A Progress Payment shall not become due until receipt by GDR or designee of a correct and complete Building Contractor's Request for Payment, certified by the GDR pursuant to this Article, and the additional documentation listed in §13.2.1, **a** through **d**, below. If errors or omissions are found during the review of the Contractor's request for payment documentation, no payment will be issued until those errors or omissions are rectified. Progress payments are made provisionally and do not constitute acceptance of Work not in accordance with the Contract Documents, in the sole discretion of the GLO. **Progress payments for Change Order Work will not be accepted for payment until the related Change Order is executed by the GLO.**

- a.** Building Contractor's Request for Payment (GLO Form 11.04), executed by Contractor, Homeowner, and Inspector;
- b.** Contractor's invoice with itemization of costs;
- c.** Signed and notarized Lien Waiver Affidavit (GLO Form 11.25) and Exhibit A; and
- d.** Progress Inspection Checklist - (GLO Form 11.10), with appropriate signatures in Sections I, II and III.

The supporting documentation and additional documents in this section are required with all Contractor requests for payment of Progress Payments. All referenced numbered forms will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>. Required documentation may change from time to time; **it is the sole responsibility of Contractor to be aware of and obtain information related to any additional requirements for supporting documentation.**

13.2.2 Satisfactory Progress Required. When Satisfactory Progress has not been made by Contractor during any period for which a Progress Payment is due to be made, a percentage of the Progress Payment may be withheld. Determinations to withhold and the specific amount to be withheld shall be made in the sole discretion of the GLO, on a case-by-case basis. Such decisions will be based on the GLO's assessment of past performance and the likelihood that such performance will continue. Upon satisfactory completion of the required Improvements, amounts withheld may be paid along with the next Progress Payment or with the Final Payment, in the sole discretion of the GLO.

13.2.3 The GLO's Duty to Pay. The GLO shall have no duty to pay Contractor except upon receipt of a completed Building Contractor's Request for Payment, GLO Form 11.04, which has been certified by the GDR and approved by the GLO, pursuant to CDBG-DR Program rules and requirements and the Supplemental General Conditions.

13.3 Withholding Payment to Contractor.

The GLO shall be entitled to withhold payment to Contractor while any of the following conditions exist:

- a.** the location, installation, or construction of a required Improvement violates or interferes with any applicable recorded instrument or governmental regulation affecting the Property;
- b.** Contractor makes a material misrepresentation in any request for payment documentation;
- c.** notice of a claim or lien on the Property has been received in connection with the construction, repair, or installation of the required Improvement, and has not been caused to be removed by Contractor.

13.4 Payment for Incomplete Work.

If Contractor is terminated or voluntarily ceases Work before completion of a Housing Unit, payment will be made for Work completed in a satisfactory manner, solely at the discretion of the GLO and without recourse by Contractor. Contractor shall provide all documentation requested by the GLO and/or GDR within twenty-four (24) hours of receipt of the request. GDR will submit to the GLO an assessment and valuation of Work completed. The GLO will make payment to Contractor based solely upon the assessment and valuation of Work completed, as submitted by GDR.

13.5 Failure to Complete Work Within the Time Allotted – Liquidated Damages.

Time is of the essence of this Contract. Contractor's failure to complete the Work within one hundred twenty (120) days or to achieve final completion as required will cause damage to the GLO. These damages shall be liquidated by agreement of Contractor and the GLO, at the rate of one hundred dollars (\$100.00) per day, per house.

13.6 Reduction to Cover Loss.

In addition to Retainage discussed in §13.1.4, the GLO may reduce any invoice prior to payment to the extent necessary to protect the GLO from loss on account of actions of Contractor, including, but not limited to:

- a. Defective Work not remedied;
- b. Damage to Work of a separate contractor;
- c. Failure to maintain scheduled progress or reasonable evidence that the Work will not be completed within the Contract Time;
- d. Failure to comply with the requirements of Texas Government Code Chapter 2258 (Prevailing Wage Law); or
- e. Persistent failure to carry out the Work in accordance with the Contract Documents;
- f. Reasonable evidence that the Work cannot be completed for the remainder of the Project Sum;
- g. Assessment of fines for violations of Prevailing Wage Rate laws;
- h. Failure to exclude the appropriate amount of Retainage when requesting a periodic payment; or
- i. Failure to pay for the retesting of materials that failed their initial tests, in accordance with Specifications requirements.

13.7 Title and Liability.

Title to all material and Work covered by Progress Payments transfers to Homeowner upon payment. Transfer of title to Homeowner does not relieve Contractor of the sole responsibility for the care and protection of materials and Work upon which payments have been made, or the restoration of any damaged Work, and does not waive the right of the GLO to require the fulfillment of all the terms of the Contract.

13.8 Progress Payments and Liability.

Progress Payments to Contractor shall not release Contractor or his surety from any obligations under this Contract.

13.9 Subcontractors.

Upon the GLO's request, manifest proof of the status of Subcontractors' accounts shall be furnished in a form acceptable to the GLO.

13.10 Payment Verification.

Contractor, in requesting payment for materials, shall provide copies of bills of lading, invoices, delivery receipts, or other evidence of the location and value of such materials.

13.11 Effective Approval Date.

For purposes of Texas Government Code §2251.021 (a)(2), the date the performance of service is completed for a Project is the date GDR approves the Building Contractor's Request for Payment for disbursement of the Final Payment on the Project.

13.12 State Funding.

- a. This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or the GLO in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VIII, Section 6 of the Texas Constitution, it

is understood that all obligations of the GLO hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, this Contract may be terminated. In that event, the parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests, accrued up to the date of termination.

- b.** Furthermore, any claim by Contractor for damages under this Contract may not exceed the amount of funds appropriated for payment, but not yet paid to Contractor under the Work Order at the time of the breach. **Nothing in this provision shall be construed as a waiver of sovereign immunity.**

13.13 Recapture of Funds.

Contractor shall conduct the Project(s) in a satisfactory manner, as determined by the GLO, as set forth in the Contract Documents. The discretionary right of the GLO to terminate for convenience under Article 20 notwithstanding, it is expressly understood and agreed by Contractor that the GLO shall have the right to terminate the Contract and to recapture, and be reimbursed for any payments made by the GLO (i) that exceed the maximum allowable rate according to the applicable federal funding agency; (ii) that are not allowed under applicable laws, rules, and regulations; or (iii) that are otherwise inconsistent with this Contract, including any unapproved expenditures.

13.14 Overpayment.

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

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Article 14 – Change Orders

14.1 Change Orders Defined.

A “Change Order” means a document executed by the GLO or the GDR (and the Contractor, if required), authorizing revisions to a Project.

14.2 Effect of Change Order.

A Change Order authorizes a change in the scope of the Work or an adjustment in the Project Sum, Contract Sum, or Contract Time. Work performed under a Change Order is subject to all provisions of the Contract Documents.

14.3 Modifications for Which a Change Order is Required.

All changes in the scope of the Work, the Project Sum, Contract Sum, the Contract Time shall be documented by a Change Order. Change Orders are the exclusive method for modifying the Project Sum, Contract Sum, or Contract Time. Neither the GLO nor GDR or any other party may change the scope of the Work, the Project Sum, Contract Sum, or the Contract Time by any method, expressed or implied, other than a Change Order.

14.4 Notice.

No direction, instruction, interpretation, or determination from GDR or the GLO shall be considered for a Change Order under this clause unless Contractor gives the GLO written notice within fifteen (15) days requesting a Change Order and stating the date, circumstances, and source of the directive.

14.5 Agreed and Unilateral Change Orders.

A Change Order may be either an Agreed Change Order or a Unilateral Change Order.

14.5.1 Agreed Change Orders. An Agreed Change Order is a Change Order jointly executed by the GLO, or GDR, and Contractor, in which each agrees to all of the terms of the amendment.

14.5.2 Effect of An Agreed Change Order. The execution of an Agreed Change Order by the GLO, or GDR, and Contractor constitutes the full, final, and complete settlement of all claims with regard to the modifications contained in the Change Order; provided, however, that an Agreed Change Order may be reformed by a written modification signed by Contractor and the GLO, or GDR., for the limited purpose of correcting an error in computation.

14.5.3 Unilateral Change Order (ULCO). A Unilateral Change Order is a Change Order issued by the GLO or GDR and does not require agreement of Contractor.

14.5.4. Effect of a Unilateral Change Order; conversion to an Agreed Change Order. The issuance of a Unilateral Change Order does not preclude any of Contractor’s rights to relief otherwise available under the Contract Documents. Contractor may preserve such rights by submitting to the GLO and GDR a written objection to the Unilateral Change Order setting forth in detail the reasons for its objections and the Contract provisions on which the objections are based, within thirty (30) days of receipt of the Unilateral Change Order. If Contractor does not submit a written objection within the allotted time, Contractor shall be deemed to have accepted the terms of the Unilateral Change Order and waives all claims related to the thereto, and the Unilateral Change Order shall have the full force and effect of any Agreed Change Order.

14.6 Change Orders for Unforeseen Dangerous Condition.

If additional Work is necessary to make repairs or to correct unforeseen dangerous conditions, Contractor shall submit a Change Order Request describing the type of Work needed, the cost of the Work, and the time necessary for the Work to be completed. Unless it is determined there exists an immediate health and safety danger, **NO WORK SHALL BE AUTHORIZED UNTIL APPROVED IN WRITING BY GDR OR THE GLO.** Change Orders will be reviewed for cost reasonableness by GDR and/or the GLO. Failure to complete a Change Order Request Form and provide proper

documentation to justify the request shall result in the rejection of the request. Change Order Request Forms will be available on the GLO's website at <http://recovery.texas.gov/resources/housing/index.html>.

14.7 Invoices and Quotes.

Contractor shall submit detailed itemized lists of labor, material, and equipment costs for Contractor's Work, including quantities and unit costs for each item of labor, material, and equipment.

14.8 Itemized List.

An itemized list of labor, material and equipment costs for each Subcontractor's and/or sub-subcontractor's Work including quantities and unit costs for each item of labor, material, and equipment.

14.9 Fixtures and Equipment.

Where the additional Work involves fixtures, equipment, or as detailed in the Construction Documents, Contractor must provide to the GLO for review and approval of the Change Order Request all product data sheets, as well as the manufacturer's data and warranty.

14.10 Who May Request Change Orders.

Change Order Requests may be initiated by the GLO, GDR, or Contractor as provided in §14.5.

14.11 Change Order Types, Processes, and Pricing.

The GLO or GDR shall provide Contractor with any additional information required by Contractor as to the types of Change Orders, the Change Order processes to be followed, and the method of computing pricing for various types of Change Orders, as determined pursuant to the CDBG-DR Program and this Contract.

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Article 15 – Contract Final Acceptance and Payment

15.1 Request for Final Payment.

At any time following the completion of Work on an individual Project, including Punch List items, cleanup, and the delivery of all documents and other Project Close-out Documents as required by the Contract Documents, Contractor shall submit to GDR, for their review and approval, a request for Final Payment, which shall exclude ten percent (10%) of the payment requested to cover Retainage.

15.2 Final Payment Documentation.

Contractor shall submit, prior to the request for Final Payment, final copies of all Close-out Documents, including maintenance and operating instructions, guarantees and warranties, certificates, documents, and all other items required by the Contract Documents. Contractor shall also submit a consent of surety to Final Payment, an affidavit that all payrolls, bills for materials and equipment, subcontracted Work, and other indebtedness connected with the Work, except as specifically noted, have been paid or will be paid or otherwise satisfied within the period of time required by Chapter 2251, Texas Government Code. Contractor shall furnish an affidavit, along with supporting documentation such as receipts, releases, and waivers or releases of claims, certifying that payment or satisfaction of all such obligations arising out of the Contract have been properly fulfilled. The GLO is entitled to rely upon this affidavit; and Contractor may not submit a claim on behalf of a subcontractor or vendor if that claim has not been noted as an exception in the affidavit.

15.2.1 Items Contractor must submit to accomplish Final Closeout include, but are not limited to, the following:

- a. Contractor Request for Payment (Form 11.04), signed by Contractor, Homeowner, and Inspector;
- b. itemization of costs;
- c. signed and notarized Lien Waiver Affidavit (Form 11.24); with Exhibit A;
- d. signed and notarized Final Bills Paid Affidavit by Contractor (Form 11.08);
- e. a completely executed Final Inspection (Form 11.03), signed and dated (this date initiates the thirty [30] day period for Retainage requirements);
- f. Green building standard certificate (not required for rehabilitation Projects); and
- g. insurance binder(s) covering the subject property, if applicable.

The supporting documentation and additional documents in this section are required with all Final Payment Contractor requests for payment. All forms will be provided by the GLO on its website at <http://recovery.texas.gov/resources/housing/index.html>. Required documentation may change from time to time; **it is the sole responsibility of Contractor to be aware of and obtain information related to any additional requirements for supporting documentation.**

15.3 GDR Approval.

GDR shall review the request for Final Payment promptly but in no event later than ten (10) days after its receipt. Prior to the expiration of this deadline, GDR shall either: (1) return the request for Final Payment to Contractor with corrections and instruction for resubmission; or (2) approve it and submit it to the GLO.

15.4 Offsets and Deductions.

The GLO may deduct from the Final Payment all sums due from Contractor for any reason, and all appropriate deductions authorized under Article 13. If GDR and/or the GLO notes any Work remaining incomplete or defects not remedied, the GLO may deduct the reasonable cost of remedying such deficiencies from the Final Payment and/or Retainage Payment. If such deductions are made, the GLO shall identify each deduction made and the reason therefore and furnish Contractor with an explanation of the deduction and the amount deducted.

15.5 Final Payment Due.

All payments made by the GLO shall be in accordance with Chapter 2251 of the Texas Government Code, the Prompt Payment Act. Thus, Final Payment shall become due and payable by the GLO, subject to all allowable offsets and deductions, on the thirty-first (31st) day next following the GLO's approval of the Contractor Request for Payment. If Contractor disputes any amount deducted by the GLO, Contractor shall give notice of the dispute on or before the thirtieth (30th) day next following receipt of Final Payment; failure to do so within the allotted time will bar any subsequent claim for payment of amounts deducted.

15.6 Effect of Final Payment.

Final Payment shall constitute a waiver of all claims by the GLO relating to the condition of the Work except those arising from (1) faulty or defective Work appearing after Final Completion (latent defects); (2) failure of the Work to comply with the requirements of the Contract Documents; (3) terms of any warranties required by the Contract Documents or implied by law, and (4) claims arising from personal injury or property damage to third parties. Final Payment shall constitute a waiver of all claims by Contractor except those specifically identified in writing and submitted to GDR prior to the application for Final Payment. Provided, however, that the Contract shall not be deemed fully performed by Contractor and closed until the expiration of all warranty periods.

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Article 16 – Contract Warranty and Guarantee

16.1 Contractor’s General Warranty and Guarantee.

Contractor warrants to the GLO that all Work shall be executed in accordance with the Contract Documents, complete in all parts, in accordance with approved practices and customs, and of the best finish and workmanship. Unless otherwise specified, all materials and equipment incorporated in the Work under the Contract shall be new. The GLO may, at its option, agree in writing to waive any failure of the Work to conform to the Contract Documents, and to accept a reduction in the Contract Sum for the cost of repair or diminution in value of the Work by reason of such defect. Absent such a written agreement, however, Contractor’s obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute and is not waived by any inspection or observation by the GLO, GDR or others, by making any Progress Payment or Final Payment, except as provided in §15.6, by the use or occupancy of the Work or any portion thereof by the GLO, at any time, or by any repair or correction of such defect made by the GLO.

16.2 Warranty Period.

Except as otherwise specified, Contractor shall repair all defects in materials, equipment, or workmanship appearing within one (1) year from the date of Final Completion and acceptance of the Work. Upon receipt of written notice from the GLO or the facility user of the discovery of any defects, Contractor shall promptly and at its own cost remedy the defects and replace any property damaged thereby and shall promptly provide written notice to the GLO and, to the extent applicable, Homeowner, indicating action taken to resolve the defect. In case of emergency where delay would cause serious risk of loss or damage to the GLO, or if Contractor, after notice, fails to proceed promptly and remedy within thirty (30) days or within another period of time which has been agreed to in writing, in compliance with the terms of the warranty and guarantee, the GLO may have the defects corrected and Contractor and his surety shall be liable for all expenses incurred.

16.3 Contractor Warranty.

16.3.1 Contractor will provide a set of limited warranties and building and performance standards which include:

- a.** a one (1) year workmanship and materials warranty; and
- b.** a ten (10) year structural warranty, as provided by a third party and paid for by the Contractor as a part of the composite pricing.

16.3.2 Furthermore, Contractor shall furnish Homeowner with all manufacturers’ and suppliers’ written guarantees and warranties covering materials and equipment furnished under the Contract. Any defects that appear within twelve (12) months from final acceptance of the Work, and that arise from defective or improper materials or workmanship shall, upon notification by the GLO, be corrected or made good by Contractor at Contractor’s expense within ten (10) working days after receipt of notice.

16.3.3 Contractors will also provide, according to “Warranty Standards:”

- a.** the standards of construction established under the Housing Quality Standards that have been approved by HUD for any items for which standards are not published; and,
- b.** except where preempted by the above expressed standards, all applied warranties.

16.4 Separate Warranties.

Where a particular piece of equipment or component of the Work for which a separate warranty is required under the Contract Documents is placed in continuous service before Final Completion, the date of service commencement shall be certified by GDR and/or the GLO and the Warranty Period for that equipment or component shall run from the date so certified. In addition to Contractor’s warranty and duty to repair, as set forth in §§16.1 and 16.2, Contractor expressly assumes all warranty obligations required under the Contract Documents for specific building components, systems, and equipment. Contractor may satisfy any such obligation by obtaining and assigning to the GLO a complying warranty from a manufacturer, supplier, or subcontractor. Where an assigned warranty which does not fully comply with the requirements of the Contract Documents is tendered by Contractor and accepted by the GLO, Contractor shall remain liable to the GLO on all elements of the required warranty that are not provided by the assigned warranty.

16.5 Certification of No Asbestos Containing Materials or Work.

16.5.1 Lead and Asbestos. Contractor shall provide a certification statement, included with each materials submittal, stating that no lead or asbestos containing materials are included within the scope of the proposed submittal. Contractor is responsible for ensuring that no lead and/or asbestos-containing materials are utilized by in the performance of Work on the Project.

16.5.2 Certification of Others. Contractor shall provide at the time of Final Inspection, a notarized certification to the GLO that no lead and/or asbestos containing building materials ("ACBM") or Work were provided, installed, furnished, or added to the Project.

16.5.3 Compliance Required. Contractor shall take whatever measures he deems necessary to ensure that all employees, suppliers, fabricators, materialmen, subcontractors, or their assigns, comply with this requirement.

16.5.4 Requirements of Code. Contractor shall ensure compliance with the Texas Asbestos Health Protection Act (TAHPA – 25 TAC 195) by all subcontractors and assigns as listed in item §16.5.3 above. All materials used under this Contract shall be certified as non ACBM.

16.5.4.1 Every subcontractor shall provide to Contractor a notarized statement that no ABCM has been used, provided, or left on the premises of the Project, and Contractor shall maintain such statements until notified by the GLO that the period for retention of records related to the Project, as stated in §22.16, has passed and destruction of records is appropriate.

16.5.4.2 Contractor shall provide data sheets and/or labels as proof of compliance, to the extent deemed necessary by the GLO for full and complete compliance.

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Article 17 – Good Faith Effort Subcontracting Program (HUBs)

17.1 General Description.

State agencies are required by statute to make a good faith effort to assist Historically Underutilized Businesses (HUBs) in participating in contract awards issued by the State. The Texas Comptroller of Public Accounts (Comptroller) rules, 34 TAC 20.281-20.298, outline the State's policy to encourage outreach to and potential utilization of HUBs in State contracting opportunities through race, ethnic, and gender-neutral means. The goal of this program is to promote full and equal business opportunity for all businesses in State contracting in accordance with the goals specified in the State of Texas Disparity Study. A Contractor who contracts with the State in an amount in excess of one hundred thousand dollars (\$100,000.00) shall be required to make a good faith effort to award subcontracts to HUBs in accordance with 34 Tex. Admin. Code § 20.285 by submitting a HUB Subcontracting Plan at the time of bidding, and by complying with the Subcontracting Plan after it is accepted by the GLO, and for the duration of the Contract.

17.2 Compliance with Approved HUB Subcontracting Plan.

Contractor, having been awarded this Contract in part by complying with the HUB Program statute and rules, hereby covenants to continue to comply with the HUB Program as follows:

Contractor shall:

- a. Prior to substituting a Subcontractor, promptly notify the GLO in the event a change is required for any reason to the accepted HUB Subcontracting Plan;
- b. Conduct the good faith effort activities required and provide the GLO with necessary documentation to justify approval of a change to the approved HUB Subcontracting Plan;
- c. Cooperate in the execution of a Change Order or such other approval of the change in the HUB Subcontracting Plans as Contractor and the GLO may agree to;
- d. Maintain and make available to the GLO upon request business records documenting compliance with the accepted HUB Subcontracting Plan;
- e. Upon receipt of payment for performance of Work, Contractor shall submit to the GLO a compliance report, in the format required by the GLO, that demonstrates Contractor's performance of the HUB Subcontracting Plan;
- f. Promptly and accurately explain and provide supplemental information to the GLO to assist in the GLO's investigation of Contractor's good faith effort to fulfill the HUB Subcontracting Plan and the requirements under HUB Rule 20.14.

17.3 Failure to demonstrate Good Faith Effort.

Upon a determination by the GLO that Contractor has failed to demonstrate a good faith effort to fulfill the Subcontracting Plan or any Contract covenant detailed above, the GLO may, in addition to all other remedies available to it, report the failure to perform to the Comptroller of Public Accounts/Texas Procurement and Support Services Division Vendor Performance and Debarment Program.

17.4 Additional HUB Requirements.

Additional requirements related to HUB Subcontracting were detailed in the RFP, incorporated herein by reference for all purposes.

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Article 18 – Concealed Site Conditions

18.1 Generally.

Contractor is responsible for having visited the Site(s) and having ascertained pertinent local conditions such as location, accessibility, and general character of the Site(s) or building(s), the character and extent of existing Work within and adjacent to the Site(s), and any other Work being performed thereon. Failure to do so will not relieve Contractor from the responsibility for successfully performing the Work at no additional expense to the GLO.

18.2 Subsurface, Latent, or Concealed Conditions.

If, during Contractor's performance of the Contract, any subsurface, latent, or concealed conditions at the Site(s) are found to be materially different from the information included in the bid documents, or if unknown conditions of an unusual nature are discovered differing materially from the conditions usually inherent in Work of the character specified, Contractor shall notify the GLO in writing of such conditions before proceeding with the Work. If necessary, the GLO shall develop a solution and provide it to Contractor. If the solution prompts changes to the Contract Amount and/or Time, the Contract shall be adjusted under Article 14 hereof, Change Orders.

18.3 Environmental Conditions.

For environmental matters, see §2.7 and §9.4.

18.4 Disclaimer.

The GLO makes no representations as to the accuracy or completeness of the Site information furnished to Contractor by the GLO and does not expressly or implicitly warrant such and is not responsible for any interpretations or conclusions reached by Contractor with respect thereto. It is Contractor's sole responsibility to verify to its own satisfaction all Site information including, but not restricted to, topographical data, borings, subsurface information, and utilities and easements, and to account for all reasonably anticipated costs in its proposal for construction.

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Article 19 – Modification of the Contract Time

19.1 No Damages for Delay.

Contractor shall have no claim for monetary compensation or damages for delay or hindrances to the Work from any cause including, without limitation, any act or omission of the GLO.

19.1.1 Suspension of Work for Cause. The GLO may, at any time without prior notice, suspend all or any part of the Work if, in the GLO's sole discretion, it is considered reasonably necessary to do so to prevent or correct any condition of the Work which constitutes an immediate safety hazard, or which may reasonably be expected to impair the integrity, usefulness, or longevity of the Work when completed. The GLO shall give Contractor a written notice of suspension for cause, setting forth the reason for the suspension and identifying the Work to be suspended. Upon receipt after such notice, Contractor shall immediately stop the Work so identified. As soon as practicable following the issuance of such notice, the GLO shall initiate and complete an investigation of the circumstances giving rise to the suspension and shall issue a written determination of their cause. Contractor will not be entitled to an extension of time or compensation for delay resulting from a suspension if the GLO's investigation determines that the cause was within the control of Contractor. If the cause is determined not to have been within the control of Contractor, and the suspension prevents Contractor from completing the Work within the Contract Time, the suspension is an excusable delay and an extension of the 120-day completion requirement shall be granted through a Change Order. Suspensions of Work under this provision shall be no longer than is reasonably necessary to identify and remedy the conditions giving rise to the suspension.

19.1.2 Suspension of Work for the GLO's Convenience. Upon seven (7) days' prior written notice to Contractor, the GLO may at any time, without breach of the Contract, suspend all or any portion of the Work for a period of up to thirty (30) days for its own convenience. The GLO shall give Contractor a written notice of suspension for convenience, which shall set forth the number of days for which the Work, or any portion of it, will be suspended, and the date on which the suspension of Work shall cease. When such a suspension prevents Contractor from completing the Work within the Contract Time, it is an excusable delay. A notice of suspension for convenience may be modified by the GLO at any time upon seven (7) days' prior written notice to Contractor. If the GLO suspends the Work for its convenience for more than sixty (60) consecutive days, Contractor may elect to terminate the Contract pursuant to the provisions of Article 20.

19.1.3 Concurrent Delay. When the completion of the Work is simultaneously delayed by an excusable delay and a delay arising from a cause not designated as excusable under the Contract Documents, Contractor shall be entitled only to a time extension, and not to compensation, for the period of concurrent delay. When the completion of the Work is simultaneously delayed by an excusable delay and an excusable noncompensable delay, Contractor shall be entitled to a time extension only, as provided under §19.1.2.

19.1.4 No Extension. Except as expressly provided in this Article 19, Contractor shall not be entitled to an extension of the Contract Time for any Project and shall bear all responsibility for financial risks which may accrue from various causes of delay in the construction progress.

19.2 Time Extension Requests.

If Contractor believes that the completion of the Work has been delayed by a circumstance designated as excusable under §19.1.2, Contractor shall submit to the GLO a written notice ("Time Extension Request"), stating the nature of the delay and the activities potentially affected, within thirty (30) days after the onset of the event or circumstance giving rise to the excusable delay. Such claims should be accompanied by sufficient written evidence to document the delay. In the case of a continuing cause of delay, only one claim is necessary. Time measurements for claims for extensions of time shall be stated in numbers of whole or half calendar days. All Time Extension Requests not submitted in connection with proposed costs for changed or added Work must be made in writing within thirty (30) days after the cessation of the delay. Contractor and the GLO recognize and agree that it is beneficial to each to identify delays and make necessary schedule adjustments promptly, and that a Project schedule prepared and updated by Contractor provides an effective tool for measuring and tracking the impact of delays. Therefore, it is agreed that no extension of time will be granted unless the required Time Extension Request is submitted Timely, the required Project schedule has been regularly updated and submitted as specified, and the

notice includes sufficient documentation acceptable to the GLO. All Changes to the Contract Time made as a result of such claims shall be by Change Order, as provided under Article 14.

19.2.1 No Release. No extension of time shall release Contractor or the Surety from continuing a performance or payment bond for any obligations under the Contract or such a bond. Those obligations shall remain in full force until the discharge of the Contract.

19.2.2 Contents of Time Extension Requests. Each Time Extension Request shall be accompanied by a quantitative demonstration of the impact of the delay on the current Project schedule. Time Extension Requests shall include a reasonably detailed narrative setting forth (1) the nature of the delay and its cause, (2) the basis of Contractor's claim of entitlement to a time extension, (3) documentation of the actual impacts of the claimed delay on the Project Schedule, and any concurrent delays, (4) description and documentation of steps taken by Contractor to mitigate the effect of the claimed delay including, when appropriate, the modification of the Project Schedule, and (5) such other information that Contractor and/or the GLO considers necessary to justify the claim for an extension of time. No time extensions shall be granted for delays that do not affect the Project schedule.

19.2.3 The GLO's Response. The GLO shall respond to the Time Extension Request by providing to Contractor written notice of the number of days extension granted, if any, and giving its reason if this number differs from the number of days requested by Contractor. Such an extension of Time is effective on the date the GLO's notice is received by Contractor, but a Change Order reflecting the Extension of Time shall be executed by the parties in accordance with Article 14, Change Orders. The GLO will respond to each properly submitted Time Extension Request within fifteen (15) days following its submittal; if the GLO cannot reasonably make a determination about Contractor's entitlement to a time extension within that time, the GLO shall so notify Contractor in writing. Upon written agreement with Contractor, the GLO shall then have not more than thirty (30) additional days to prepare a final response.

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Article 20 – Termination and Suspension of the Contract Prior to Completion

20.1 Termination by the GLO for Cause.

The GLO may, without prejudice to any right or remedy, terminate Contractor's Contract and take possession of the Work Site(s) and of all materials, equipment, tools, construction equipment, and machinery thereon owned by Contractor, under the following circumstances:

- a. Persistent or repeated failure or refusal to supply enough properly skilled workmen or proper materials, except during complete or partial suspensions of Work authorized under the Contract Documents;
- b. Persistent disregard by Contractor of laws, ordinances, rules, regulations, or orders of the GLO or any public authority having jurisdiction;
- c. Persistent failure to prosecute the Work in accordance with the Contract Documents, and to ensure its completion within the time, or any extension thereof, specified in the Work Order;
- d. Failure to remedy defective Work condemned by GDR pursuant to Article 12;
- e. Failure to pay Subcontractors, laborers, materialmen, and suppliers pursuant to Texas Government Code Chapter 2251;
- f. Persistent endangerment by Contractor or its Subcontractors or other vendors, of the safety of labor, safety of third parties, or of the Work itself;
- g. Failure to supply or maintain statutory bonds, pursuant to Article 5, or to supply or maintain required insurance, pursuant to Article 6;
- h. Any other material breach of the Contract; or
- i. Contractor becomes insolvent, files for bankruptcy protection, makes a general assignment of its rights and obligations for the benefit of creditors or is, in the GLO's sole determination, otherwise financially incapable of performing the Work.

The GLO reserves the right to terminate Work authorized at any time for any of the above listed causes. Failure to exercise the right to terminate in any instance or for any proper reason shall not be construed as waiver of the right to do so in any other instance or for any other reason.

20.1.1 Notification and Reinstatement. Except for reasons stated in §20.1(f) above, safety of persons or the Work, GDR shall give Contractor and its surety thirty (30) days' prior written notice of its intent to terminate for any of the above reasons. If Contractor or the surety demonstrates to the satisfaction of the GLO that the condition or conditions upon which the notice of termination is based have been removed, corrected, or will not recur, the GLO in its sole discretion may rescind the notice, and the Contract shall continue unmodified, and Contractor shall not be entitled an extension of time.

20.1.2 Third-Party Completion. If Contractor or the surety fails to so demonstrate within thirty (30) days following receipt of such notice or fails to satisfy the GLO that the condition or conditions upon which the notice of termination is based have been removed, corrected, or will not recur, the GLO may arrange for completion of the Work by another party. The GLO shall deduct the cost thereof from the unpaid Contract Sum remaining, including the GLO contract administrative costs made necessary by such default or neglect, in which event no further payment shall be made by the GLO until all costs of completing the Work have been deducted. If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for the GLO's additional services made necessary thereby, such excess shall be paid to Contractor. If such costs exceed the unpaid balance, Contractor or his surety shall pay the difference to the GLO. This obligation for payment shall survive the termination of the Contract. The GLO reserves the right, where the Contract is terminated for cause, to take assignment of any and all contracts between Contractor and its Subcontractors, vendors, and suppliers, and GDR shall promptly notify Contractor of the contracts the GLO elects to assume. Upon receipt of such notice, Contractor shall promptly take all steps necessary to effect such assignment. **Contractor assumes full responsibility for severance and satisfaction of all subcontracts not assumed by the GLO.**

20.2 Termination for Convenience of the GLO.

The GLO reserves the right, without breach, to terminate the Contract prior to, or during the performance of the Work, for any reason. Upon such occurrence, the following procedures will be initiated:

- (1) The GLO will immediately notify Contractor in writing, specifying the reason for, and the effective date of, Contract termination. Such notice shall also contain any instructions necessary for the protection, storage, or decommissioning of incomplete Work or systems, and for safety.
- (2) **After receipt of a notice of termination, Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at that point under the Contract or Work Order:**
 - a. Stop all Work; and
 - b. Place no further subcontracts or orders for materials or services; and
 - c. Terminate all subcontracts not assumed by the GLO; and
 - d. Cancel all material and equipment orders, as applicable; and
 - e. Take all action necessary to protect and preserve all property in possession of Contractor related to this Contract.
- (3) When the Contract is terminated for the GLO's convenience, Contractor may recover from the GLO payment for all Work satisfactorily executed and accepted by GDR and the GLO, including any additional Work required pursuant to the notice of termination, and for any provable loss and reasonable expenses attributable to the Work and resulting directly from the termination.

20.3 Termination by Contractor.

If the Work is stopped for a period of ninety (90) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, and through no act or fault of Contractor or a Subcontractor or their agents or employees or any other persons performing any of the Work under a subcontract with Contractor, Contractor may, upon thirty (30) additional days' written notice to GDR, terminate the Contract and recover reasonable expenses attributable to the Work resulting from such termination. **If the cause of the Work stoppage is removed prior to the end of the thirty (30) day notice period, Contractor may not terminate the Contract.**

20.4 Settlement Upon Termination.

When the Contract is terminated for any reason, Contractor shall, at any time prior to the close of business within one hundred eighty (180) days after the effective date of termination, submit a final termination settlement proposal to the GLO, based upon recoverable costs as provided under §§20.1, 20.2 or 20.3. If Contractor fails to submit the proposal within the time allowed, the GLO may determine the amount due to Contractor and shall pay the determined amount. Contractor waives claims against the GLO for consequential damages arising out of, or relating to, this Contract. This waiver includes damages incurred by Contractor for principal office expenses, including the compensation of personnel stationed there, for losses of financing, business, and reputation, and for loss of profit except anticipated profit arising directly from Work already performed and accepted by GDR and the GLO.

20.5 Force Majeure.

Except with respect to the obligation of payments under this Contract, if either of the parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; labor strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected party (collectively referred to as a "Force Majeure") then, while so prevented, the affected party's obligation to comply with such covenant shall be suspended, and the affected party shall not be liable for damages for failure to comply with such covenant. In any such event, the party claiming Force Majeure shall promptly notify the other party of the

Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and shall resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, the GLO may terminate this Contract immediately upon written notification to Contractor.

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Article 21 – Dispute Resolution

21.1 Generally.

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code, as further described herein, shall be used, by the GLO and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the procedures described in §21.4 below, and the following shall be observed by the parties

- a. Initiation of Process.** A Contractor's claim for breach of this Contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, Subchapter B, of the Texas Government Code. To initiate the process, Contractor shall submit written notice, as required by Subchapter B, to GDR. Said notice shall specifically state that the provisions of Chapter 2260, Subchapter B are being invoked. A copy of the notice shall also be given to all other representatives of the GLO and Contractor otherwise entitled to notice under the Contract. Compliance by Contractor with Subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Texas Government Code.
- b. Sole Process for Remedy.** The contested case process provided in Chapter 2260, Subchapter C, of the Government Code is Contractor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by the GLO if the parties are unable to resolve their disputes under the negotiation process in §21.1(a) above.
- c. No Waiver of Sovereign Immunity.** Compliance with the contested case process provided in Subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practices and Remedies Code. Neither the execution of the Contract by the GLO nor any other conduct of any representative of the GLO relating to the Contract shall be considered a waiver of sovereign immunity to suit.

21.2 Procedure.

The submission, processing, and resolution of Contractor's claim is governed by the published rules adopted by the GLO pursuant to Chapter 2260, as currently effective, hereafter enacted, or subsequently amended.

21.3 Continuing Performance

Neither the occurrence of an event nor any pending claim constitutes grounds for the suspension of performance by Contractor, in whole or in part.

21.4 Administrative Remedy.

Before submitting any matter not resolved in the ordinary course of business to the dispute resolution process described in §21.1, Contractor shall make a written request to GDR for a determination of the matter in dispute. The written request shall clearly state the disputed issue and include or incorporate by specific reference all information or documents that Contractor wants GDR to consider in reaching his determination. GDR shall issue a written notice of decision on the request, which shall be final and conclusive, unless appealed in writing to the GLO, within thirty (30) days of the notice. The notice of appeal shall particularly state the factual and legal basis for Contractor's objections to GDR's decision. The GLO will review the decision of GDR based on the written notice of appeal and the written record that was the basis of GDR's decision and issue a written notice of decision on appeal. The GLO's written notice of decision on appeal shall be final and conclusive on all matters except for claims of breach of contract which are then subject to the dispute resolution process described in §21.1.

21.5 Non-Waiver.

Nothing herein shall hinder, prevent, or be construed as a waiver of the GLO's right to seek redress on any disputed matter in a court of competent jurisdiction.

Article 22 – Miscellaneous

22.1 Conflict in Terms and/or Definitions.

Conflicting terms and/or definitions in any federal funding agency provisions; other laws, rules, or regulations; this document; the Contract; the Work Order(s); and any other issuances that may pertain to the services authorized by the GLO will be harmonized to the extent possible, and their meanings shall be ultimately determined, defined, or interpreted by, and in the sole discretion of, the GLO.

22.2 Written Notice and Method of Delivery.

Written notice shall be considered to have been duly given if the document is delivered in person to the designated representative of Contractor or the GLO for whom it is intended, if delivered at or sent by registered or certified mail, return receipt requested, to the last business address of the designated representative known to one who gives the notice, or transmitted by facsimile to the last known business facsimile number of the designated representative, with a receipt retained to prove delivery, or via electronic mail, return receipt requested. Notice is deemed effective when given rather than when received. However, notice by certified mail, or electronic mail is not effective until three (3) days after the date of mailing and notice by facsimile is not effective until the next business day after faxing.

22.3 Supplemental and Special Conditions.

When the Work contemplated by the GLO is of such a character that the Uniform General Conditions of the Contract cannot adequately cover necessary and additional contractual relationships, the Contract may include Special Conditions and other administrative requirements as described below:

22.3.1. Supplemental General Conditions. Supplemental General Conditions, if any, are incorporated herein and describe the standard procedures and requirements of contract administration followed by the GLO, a contracting agency of the State. Supplemental Conditions, if any, may expand upon matters covered by the Uniform General Conditions where necessary. Supplemental Conditions are of such a character that it is to be anticipated that a contracting agency of the State will normally use the same, or similar, conditions to supplement each of its several Projects.

22.3.2. Special Conditions. Special Conditions shall relate to a particular Project and be specific to that Project but shall not weaken the character or intent of the Uniform General Conditions or Supplemental General Conditions, if any.

22.4 Computation of Time.

In computing any time period set forth in this Contract, the first day of the period shall not be included, but the last day shall be.

22.5 Survival of Obligations.

All representations, indemnifications, warranties, and guarantees made in accordance with the Contract Documents will survive final payment, completion, and acceptance of the Work, as well as termination for any reason. All duties imposed upon Contractor by reason of termination, including, without limitation, the duty to assign subcontracts and contracts with vendors and suppliers, shall likewise survive the termination of the Contract.

22.6 No Waiver of Performance.

The failure of either party in any instance to insist on the performance of any of the terms, covenants or conditions of the Contract Documents, or to exercise any of the rights granted thereunder, shall not be construed as waiver of any such term, covenant, condition or right with respect to further performance.

22.7 Governing Law.

This Contract shall be governed by the laws of the State of Texas.

22.8 Captions and Catch Lines.

The captions and catch lines used throughout the Uniform General Conditions are for ease of reference only and have no effect on the meaning of the terms and conditions set forth herein.

22.9 Independent Contractor Status.

The Contract Documents create an independent contractor relationship between the GLO and Contractor and neither party's employees or contractors shall be considered employees, contractors, partners, or agents of the other party.

22.10 No third-party beneficiaries.

The parties do not intend, nor shall any clause be interpreted, to create in any third party any obligations to, or right of benefit by, such third party under these Contract Documents from either the GLO or Contractor.

22.11 Entire Agreement.

These Contract Documents supersede in full all prior discussions and agreements, both oral and written, between the parties relating to the subject matter hereof and constitute the entire agreement.

22.12 Assignment.

The Contract may not be assigned by either party without the prior written consent of the other.

22.13 Severability.

If any provision, sentence, clause, or Article of this Contract is found to be invalid or unenforceable for any reason, the remaining provisions shall continue in effect as if the invalid or unenforceable provisions were not in the Contract. All provisions, sentences, clauses, and Articles of this Contract are severable for this purpose.

22.14 Parties Bound.

Execution of this Contract by each party binds the entity represented as well as its employees, agents, successors, and assigns to its faithful performance.

22.15 No waiver of Sovereign Immunity.

Nothing herein shall be construed as a waiver of the State's sovereign immunity.

22.16 Record Retention.

Contractor shall maintain, in an organized and orderly manner, all records relevant to the Contract for the period of time prescribed by HUD for the CDBG-DR Program. **All participants under the Program, including Contractor, will be notified of the date upon which records may be destroyed.**

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Article 23 – Supplemental General Conditions

23.1 Non-Exclusive List of Laws, Rules, and Regulations.

If applicable to any Project, Contractor must be in compliance with the following laws, rules, and regulations; and any other state, federal, or local laws, rules, and regulations as may become applicable throughout the term of the Contract, and Contractor acknowledges that this list may not include all such applicable laws, rules, and regulations. **Contractor is deemed to have read and understands the requirements of each of the following, if applicable to the Project(s) under this Contract.**

23.1.1 Generally.

- 23.1.1.1 The Acts and Regulations specified in this Contract;
- 23.1.1.2 The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2016 (Public Law 114-113);
- 23.1.1.3 The Transportation, Housing and Urban Development, and Related Agencies Act, 2017 (Public Law No. 115-31);
- 23.1.1.4 Continuing Appropriations Act, 2017 (Public Law No. 114-223);
- 23.1.1.5 The Further Continuing Appropriations Act, 2017 (Public Law No. 114-254);
- 23.1.1.6 The Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56);
- 23.1.1.7 The Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Public Law 115-123);
- 23.1.1.8 The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (Public Law 116-20);
- 23.1.1.9 The Housing and Community Development Act of 1974 (12 U.S.C. § 5301 et seq.);
- 23.1.1.10 The United States Housing Act of 1937, as amended, 42 U.S.C. § 1437f(o)(13) (2016) and related provisions governing Public Housing Authority project-based assistance, and implementing regulations at 24 C.F.R. Part 983 (2016);
- 23.1.1.11 Cash Management Improvement Act regulations (31 C.F.R. Part 205);
- 23.1.1.12 Community Development Block Grants (24 C.F.R. Part 570);
- 23.1.1.13 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200);
- 23.1.1.14 Disaster Recovery Implementation Manual;
- 23.1.1.15 Plan for Disaster Recovery;
- 23.1.1.16 Executive Order 12892, as amended;

23.1.2 Civil Rights.

- 23.1.2.1 Title VI of the Civil Rights Act of 1964, (42 U.S.C. § 2000d et seq.); 24 C.F.R. Part 1, "Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development - Effectuation of Title VI of the Civil Rights Act of 1964;"
- 23.1.2.2 Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C. § 2000e et seq.);
- 23.1.2.3 Title VIII of the Civil Rights Act of 1968, "The Fair Housing Act of 1968" (42 U.S.C. 3601 et seq.), as amended;
- 23.1.2.4 Executive Order 11063, as amended by Executive Order 12259, and 24 C. F.R. Part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063." The failure or refusal of Contractor to comply with the requirements of Executive Order 11063 or 24 C.F.R. Part 107 shall be a proper basis for the imposition of sanctions specified in 24 C.F.R. 107.60;
- 23.1.2.5 The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);
- 23.1.2.6 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794.) and "Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban

Development", 24 C.F.R. Part 8. By signing this Contract, Contractor understands and agrees that the activities funded shall be performed in accordance with 24 C.F.R. Part 8; and the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.), including the use of a telecommunications device for deaf persons (TDDs) or equally effective communication system.

23.1.3 Labor Standards.

- 23.1.3.1** The Copeland "Anti-Kickback" Act (18 U.S.C. 874 and re-codified at 40 U.S.C. § 3145); 29 C.F.R. Part 3;
- 23.1.3.2** Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. § 327A and 330 and re-codified at 40 U.S.C. §§ 3701-3708);
- 23.1.3.3** Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act) (29 C.F.R. Part 5);
- 23.1.3.4** Federal Executive Order 11246, as amended;

23.1.4 Employment Opportunities.

- 23.1.4.1** Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C.1701u): 24 C.F.R. §§ 135.3(a)(2) and (a)(3);
- 23.1.4.2** The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. § 4212);
- 23.1.4.3** Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1688); and
- 23.1.4.4** Federal Executive Order 11246, as amended;

23.1.5 Grant and Audit Standards.

- 23.1.5.1** Single Audit Act Amendments of 1996, 31 U.S.C. § 7501;
- 23.1.5.2** Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200);
- 23.1.5.3** Uniform Grant and Contract Management Act (Texas Government Code Chapter 783) and the Uniform Grant Management Standards issued by Governor's Office of Budget and Planning; and
- 23.1.5.4** Title 1 Texas Administrative Code § 5.167(c);

23.1.6 Lead-Based Paint.

- 23.1.6.1** Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)); and 24 CFR 570.608 and 24 CFR Part 35, Subpart B, as applicable.

23.1.7 Historic Properties.

- 23.1.7.1** The National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 *et seq.*), particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2), except as provided in §58.17 for Section 17 projects;
- 23.1.7.2** Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 C.F.R. 1971-1975 Comp., p. 559, particularly section 2(c);
- 23.1.7.3** Federal historic preservation regulations as follows: 36 C.F.R. part 800 with respect to HUD programs;
- 23.1.7.4** The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.), particularly section 3 (16 U.S.C. 469a-1);

23.1.8 Environmental Law and Authorities.

- 23.1.8.1** Environmental Review Procedures for Recipients assuming HUD Environmental Responsibilities (24 C.F.R. Part 58, as amended);
- 23.1.8.2** National Environmental Policy Act of 1969, as amended (42 U.S.C. §§ 4321-4347);
- 23.1.8.3** Council for Environmental Quality Regulations for Implementing NEPA (40 C.F.R. Parts 1500-1508).

23.1.9 Floodplain management and wetland protection.

- 23.1.9.1** Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 C.F.R. part 55, particularly Section 2(a) of the Order (For an explanation of the relationship between the decision-making process in 24 C.F.R. part 55 and this part, see § 55.10.);
- 23.1.9.2** Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 C.F.R., 1977 Comp., p. 121 particularly Sections 2 and 5;

23.1.10 Flood Zone Restriction.

- 23.1.10.1** Contractor is responsible for ensuring that no funds under this Agreement will be used for any activity in an area delineated as a special flood hazard area (defined as zone “A”, “V”, “M” and “E” series) (44 CFR 64.3) in the Federal Emergency Management Agency’s (“FEMA”) most current flood advisory maps (Flood Insurance Rate Map, as amended by Letters of Map Amendment or Letters of Map Revisions) unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain in accordance with Executive Order 11988 and 24 CFR Part 55.

23.1.11 Coastal Zone Management.

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

23.1.12 Sole source aquifers.

- 23.1.12.1** The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) *et seq.*, and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 U.S.C. 300h-3(e));
- 23.1.12.2** Sole Source Aquifers (Environmental Protection Agency-40 C.F.R. part 149);

23.1.13 Endangered species.

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

23.1.14 Wild and scenic rivers.

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

23.1.15 Air quality.

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

23.1.16 Farmland protection.

- 23.1.16.1** Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 *et seq.*) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202);
- 23.1.16.2** Farmland Protection Policy (Department of Agriculture-7 C.F.R. part 658);

23.1.17 HUD environmental standards.

- 23.1.17.1** Applicable criteria and standards specified in HUD environmental regulations (24 C.F.R. part 51)(other than the runway clear zone and clear zone notification requirement in 24 C.F.R. 51.303(a)(3)); and
- 23.1.17.2** HUD Notice 79-33, Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials, September 10, 1979.

23.1.18 Environmental justice.

- 23.1.18.1** Executive Order 12898 of February 11, 1994—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, (59 FR 7629), 3 CFR, 1994 Comp. p. 859.

23.1.19 Suspension and Debarment.

- 23.1.19.1** Use of debarred, suspended, or ineligible contractors or subrecipients (24 C.F.R § 570.609);
- 23.1.19.2** General HUD Program Requirements; Waivers (24 C.F.R. Part 5); and
- 23.1.19.3** Non-procurement Suspension and Debarment (2 C.F.R. Part 2424).

23.1.20 Other requirements.

- 23.1.20.1** Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58).

23.1.21 Acquisition / Relocation.

- 23.1.21.1** The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et seq.*), 24 C.F.R. Part 42, and 24 C.F.R. Section 570.606.

23.1.22 Faith-Based Activities.

- 23.1.22.1** Executive Order 13279 of December 12, 2002 - Equal Protection of the Laws for Faith-Based and Community Organizations (67 FR 77141).

23.1.23 Noise Abatement.

- 23.1.23.1** HUD in 24 CFR Part 51, Subpart B. To help ensure noise levels do not become excessive, construction activities are restricted to mostly weekdays during daylight hours.

23.1.24 Guidance Documents.

- 23.1.24.1** State of Texas Plan for Disaster Recovery dated September 20, 2016, as amended.
- 23.1.24.2** State of Texas Plan for Disaster Recovery dated March 10, 2017, as amended.
- 23.1.24.3** State of Texas Plan for Disaster Recovery: Hurricane Harvey – Round 1, dated April 6, 2018, as amended.
- 23.1.24.4** Any future State of Texas Plans for Disaster Recovery, as may be applicable.
- 23.1.24.5** Application Guide, issued by the Texas Department of Housing and Community Affairs.

23.2 Rental Assistance. Contractor is responsible for providing rental assistance to Homeowner if construction is not completed within one hundred twenty (120) days of the Notice to Proceed, regardless of the cause of the delay, in an amount not to exceed Two Thousand Dollars (2,000.00).

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Texas General Land Office
Community Development and Revitalization
Contractor-Homeowner Agreement

Contractor Information	
Funding Source:	Federal Award Number:
Building Contractor - "Contractor":	Contractor Address:
Homeowner Information	
Applicant Name:	Co-Applicant Name:
Applicant Address - "Property":	Applicant City/State/ZIP:

Applicant and Co-Applicant(s) shall be collectively referred to in this Agreement as "Homeowner."

Contractor and Homeowner are referred to individually as a "Party" to this Agreement and collectively as the "Parties."

ARTICLE 1

1.1 Definitions

The terms used in this Agreement shall have, unless the context clearly indicates otherwise, the meanings specified within this article:

"[Contractor-Homeowner Agreement](#)" or "[Agreement](#)" means this Agreement executed by and between Contractor, as primary builder of the Property, and Homeowner as the beneficiary of federal grant funds.

"[Contractor](#)" means the primary contracted builder of the property.

"[GLO](#)" means the Texas General Land Office; its officers, employees, and designees; the State of Texas; and any duly authorized representative acting by and through the GLO.

"[GLO's Designated Representative](#)" or "[GDR](#)" means the individual appointed or assigned by the GLO to be its on-site representative during the Project(s), to exercise certain powers on behalf of the GLO and to undertake certain contract administration activities as specifically outlined in the Contract Documents. GDR may also be referred to as Project Manager ("PM"), and the terms are interchangeable.

"[Homeowner](#)" means, collectively, the Applicant and any Co-Applicants, who, upon receipt of funds from Lender, agree to the repayment of those funds in accordance with the terms outlined in this Note.

“[Notice to Proceed](#)” means the written authorization from the GLO giving Contractor the authority to commence Work for a specified Project.

“[Program](#)” means the U.S. Department of Housing and Urban Development’s Community Development Block Grants for Disaster Recovery program

“[Scope of Work](#)” or “[SOW](#)” means a detailed construction document authorized by the GLO that outlines all Work to be performed on the Property to repair and restore the Property from damages incurred due to a Presidentially-declared disaster.

“[Work](#)” means all labor, plans, materials, facilities, and all services necessary or incidental to the fulfillment of the activities, requirements, and obligations included in any Scope of Work.

ARTICLE 2

2.1 Purpose

The purpose of this Agreement is to authorize Contractor to repair, reconstruct, or replace residential structure(s) owned by Homeowner, located on the Property, and damaged or destroyed due to a Presidentially-declared disaster and to conduct any other services identified in the Scope of Work that are included to meet requirements of the Program (collectively, the “Project”).

2.2 Project Funding

All funding for the Project is being provided by the United States Department of Housing and Urban Development under a Community Development Block Grant for disaster recovery purposes, which is administered on behalf of the State of Texas by the General Land Office (the “GLO”) through the GLO’s Homeowner Assistance Program (“the “Program”). Homeowner is not required to pay fees or provide any type of payment to Contractor or other third parties in order to participate in this Program.

2.3 Acceptance of Scope of Work and Consent to Perform the Project

Homeowner hereby acknowledges the receipt and review of the Project Scope of Work presented to Homeowner by the GLO or the GLO’s Designated Representative (GDR). Homeowner and Contractor acknowledge and agree that each Party has fully reviewed the SOW, and the Parties hereby accept and consent to the terms and conditions of the SOW, which specifies the construction Work and other activities, such as environmental mitigation, to be conducted by Contractor on the Property. The Parties acknowledge and agree that only the GLO or GDR may add tasks to the SOW, and only the GLO or GDR can authorize Contractor to perform any additional tasks.

2.4 Responsibility of Homeowner

(a) **Property Access, Cooperation, and Noninterference.** Homeowner grants full access to the Property to the GLO and its authorized designees, including, but not limited to, Contractor; Contractor’s workforce and subcontractors; the GDR; the subrecipient, if any; and any authorized inspectors employed by the GLO or other governmental entity with appropriate legal authority, as may be required to make inspections and to complete the Project.

Homeowner agrees to cooperate with all parties identified above and their designees and to not unreasonably interfere with the Work on the Project or inspections of the Property. In the event that Homeowner unreasonably interferes with the Work or an inspection in any manner, Contractor shall deliver a written notice to Homeowner and the GDR, ordering Homeowner to cease any activity causing the interference. If Homeowner does not cease the activities specified in the notice within three (3) calendar days, Homeowner may be prohibited from participating in the Program and may be required to reimburse GLO for all Work performed on the Property by Contractor.

Homeowner agrees to cooperate with Contractor to ensure that all utilities, including water, sewer, and electrical service, are available for use by Contractor and supplied to the Property for the duration of the Project.

- (b) **Site Ready.** Upon execution of this Agreement by the Parties, Homeowner agrees to remove all personal items and valuables from the Property and disconnect utilities, if instructed to do so by the GLO or Contractor, within fifteen (15) days. Neither the GLO nor any of its designees, including Contractor, shall bear responsibility or liability for the loss, misplacement, or damage to any such items not removed timely by Homeowner. Notwithstanding the preceding, if Homeowner's items are damaged or lost solely through negligence of Contractor, Contractor will reimburse Homeowner for such damage, loss, or utility expenses within fifteen (15) days' written request by Homeowner to Contractor, with a copy to the GLO or the GDR.
- (c) **Duty to Inform.** Homeowner shall inform Contractor of any known onsite hazards on the Property, including, but not limited to, buried lines, tanks, septic systems, water wells, natural hazards, venomous insects or snakes, and propane tanks.
- (d) **Notice to Homeowner and Any Occupants of the Property.** Homeowner confirms that all occupants of the Property and all persons who may claim an interest in the Property have been notified of the terms of this Agreement. By executing this Agreement, Homeowner certifies Homeowner has the authority to act on behalf of all occupants of the Property and all other persons who claim any interest in the Property.
- (e) **Acknowledgment of Receipt of Documents.** Homeowner hereby reaffirms all information provided in the required documents Homeowner executed as part of the application process under the Program and agrees to all provisions set forth thereunder.
- (f) **Lead and Asbestos.** If applicable, Homeowner acknowledges receipt of, and has reviewed and acknowledges, disclosures pertaining to lead-based paint and asbestos-containing building materials.

2.5 Responsibility of Contractor

- (a) **Rental Assistance in the Event of Delayed Construction.** Contractor is responsible for providing rental assistance to Homeowner if the Project is not completed within one hundred twenty (120) days of the Notice to Proceed, regardless of the cause of the delay, in an amount not to exceed Two Thousand Dollars (\$2,000.00).
- (b) **Warranty Issues and Follow-Up.** Contractor will provide a set of limited warranties and building and performance standards that include a one-year (1-year) workmanship and materials warranty, a ten-year (10-year) structural warranty, and, when necessary, a third-

party one-year (1-year) flood insurance policy. Contractor shall furnish Homeowner with all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under the SOW. Contractor shall, within ten (10) working days' notice from the GLO or GDR and at Contractor's sole expense, correct or make good any defects that arise from defective or improper materials or workmanship appearing within twelve (12) months from final acceptance of the Project. Contractor's warranty shall not include normal wear and tear. Homeowner is responsible for all operation, costs, and maintenance of the Property subsequent to the completion and acceptance of the Project. Homeowner will contact the GLO or GDR concerning all warranty items related to the Project. Contractor shall remain liable for defects in the Project as provided under Texas law. None of the offices, agencies, or employees of the Federal government or the State of Texas warranty any of the materials, goods, or services provided under this Agreement.

- (c) **Conditions of the Premises.** Contractor agrees to keep the Property orderly and to remove all debris as needed during the course of the Project in order to maintain safe working conditions. Homeowner agrees that Contractor may prohibit entry to the Property due to safety concerns for a reasonable period needed to provide a safe environment for entry, after which the Property visit may occur.

2.6 Additional Provisions

- (a) **Final Approval of the Project.** The GLO's authorized inspectors, and any local inspectors as necessary, shall perform all required inspections of the Project, after which the GLO will review and approve the completed Project. If Homeowner disagrees with the results of the final inspection, Homeowner must notify Contractor and the GDR in writing within five (5) days of the final inspection to properly file its protest. If the GLO concurs with the Homeowner, the GLO or GDR will request that the original Contractor perform any Work deemed to be required. If the GLO, in its sole discretion, determines that the Contractor has not completed the Work adequately, a second contractor may be selected to perform additional services to be set forth on a separate SOW, and Homeowner agrees to continue to provide access and cooperation concerning the Project, in accordance with Section 2.4 of this Agreement. If the GLO or GDR determines that the second contractor has completed the Work satisfactorily but Homeowner does not accept the Work as performed within seven (7) days of its completion, the GLO or GDR may accept the Work on behalf of Homeowner to close out the Project.
- (b) **Liens.** Neither Homeowner nor Contractor will suffer or permit any mechanic's or materialman's lien claims, whether statutory or constitutional, to be filed or otherwise asserted against the Property or against any funds due to Contractor and will promptly seek discharge of any such lien claims filed. Contractor, subcontractors, suppliers, vendors, tradesmen, and any other persons or entities performing Work on the Property are strictly prohibited from placing liens on said Property. Contractor is solely responsible for informing all persons or entities of such strict prohibition. Contractor is solely responsible for the removal of any lien, any associated expense involved therewith, and any lien placed on the Property by any subcontractor, supplier, vendor, trade or other person or entity performing work for Contractor, irrespective of the fault of cause of such attachment.

- (c) **Additional Work.** Homeowner and Contractor agree that any repairs or improvements made to the Property not included in this Agreement and the Project hereunder, as authorized by the GLO or GDR, will be by a separate agreement between Homeowner and Contractor. Homeowner and Contractor agree that Program funds are to be used solely for performance of the Work outlined in the Scope of Work for the Project and shall not be used for other purposes or improvements on the Property that are not part of the Project. Absent express permission from the GLO or GDR, additional work agreed upon by Homeowner and Contractor cannot be initiated until after all Work identified in the SOW has been completed and passed final inspection and Contractor has received the Program's thirty-day (30-day) retainage payment.
- (d) **Force Majeure.** No Party will be liable for any failure or delay in performing its obligations under this Agreement if such failure or delay is due to any cause beyond the reasonable control of such Party, including, but not limited to, unusually severe weather, labor strikes, natural disasters, severe fire, civil disturbance, epidemic, war, acts or threatened acts of terrorism, court order, or acts of God. The existence of such causes of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Each Party must inform the other of any cause of performance failure or delay, by written notice, within five (5) business days of the existence of a Force Majeure event and provide a copy of the notice to the GLO or GDR, with proof of receipt. Failure to provide timely notice of the existence of a Force Majeure event waives the Party's right to assert the Force Majeure event as a defense to any claims that may arise from the delay or failure of performance. A claim of delay or failure of performance due to a Force Majeure event shall be subject to review by the GLO or GDR, who shall have the final say on any extension of the period of performance and the length of said extension.
- (e) **Assignment.** Contractor enters this Agreement pursuant to an assignment issued by the GLO. The GLO may, in its sole discretion and at any time, terminate that assignment and assign another contractor to perform under the original SOW or a new SOW. In the event that a new contractor is assigned to perform any Work, the new contractor must accept the terms of this Agreement. If a new contractor is assigned to perform any Work on the Project, Homeowner agrees that all rights and obligations created by this Agreement will survive the assignment, with the new contractor succeeding to those rights and obligations of Contractor.
- (f) **Amendment.** This Agreement may be amended only by written agreement between the Parties.
- (g) **Headings.** The headings or captions in this Agreement are for convenience and reference only and shall not be construed or interpreted as expanding, limiting, defining, or otherwise construing the terms and provisions of this Agreement as set forth herein.
- (h) **Counterparts.** This Agreement may be executed in counterparts by facsimile transmission or by electronic mail as a portable document format (.pdf) file. Each counterpart shall be considered an original, and all counterparts shall, together, constitute but one and the same document.
- (i) **Third-Party Beneficiary.** The Parties agree that the Texas General Land Office, as

administrator of the Program, is a third-party beneficiary to this Agreement and that the GLO shall have the right to enforce any provision of this Agreement. The GLO shall enforce a provision of the Construction Agreement only after notifying Contractor and Homeowner, in writing, of potential breach or default of the Agreement and allow sixty (60) days to cure the breach or default. Venue of any suit under this section shall be in a court of competent jurisdiction in Travis County, Texas. The Parties irrevocably waive any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of *forum non conveniens*, that they may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Agreement or any document related hereto. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**

(j) Effective Date. This Agreement is effective on the date it is signed by the last Party.

Signatures	
Homeowner Name:	
Homeowner Signature:	Date:
Co-Homeowner Name:	
Co-Homeowner Signature:	Date:
Contractor Name:	
Contractor Signature:	Date:



**AMENDMENT NO. 3 TO
GLO CONTRACT NO. 19-094-014**


THE GENERAL LAND OFFICE (the “GLO”) and **DRC CONSTRUCTION, LLC** (“Contractor”), each a “Party” and collectively “the Parties” to GLO Contract No. 19-094-014 (the “Contract”), desire to amend the Contract. Therefore, the Parties agree as follows:

1. **SECTION 2.01** of the Contract is amended to reflect a termination date of **June 30, 2024**.
2. This Amendment shall be effective upon the date of the last signature.
3. The terms and conditions of the Contract not amended herein shall remain in force and effect.


SIGNATURE PAGE FOLLOWS






**SIGNATURE PAGE FOR AMENDMENT NO. 3 TO
GLO CONTRACT NO. 19-094-014**

GENERAL LAND OFFICE

DocuSigned by:

7C299F4374E7497...
Mark A. Havens, Chief Clerk/
Deputy Land Commissioner
Date of execution: 6/1/2021

DRC CONSTRUCTION, LLC

DocuSigned by:

AE3C7EB3763C42E...
Name: Dawn Cockerill
Title: Owner
Date of execution: 6/1/2021

OGC 
PM 
SDD 
DGC 
GC 



**AMENDMENT NO. 4 TO
GLO CONTRACT NO. 19-094-014**

THE GENERAL LAND OFFICE (the “GLO”) and **DRC CONSTRUCTION, LLC** (“Contractor”), each a “Party” and collectively “the Parties” to GLO Contract No. 19-094-014 (the “Contract”), desire to amend the Contract.

WHEREAS, the Parties desire to extend the term of the Contract; and

WHEREAS, the Parties desire to revise the Federal Assurances and Certifications and the Revised General Affirmations to reflect updated terms;

NOW, THEREFORE, the Parties hereby agree as follows:

1. **SECTION 2.01** of the Contract is amended to reflect a termination date of **June 30, 2025**.
2. **ATTACHMENT B** to the Contract, **Federal Assurances and Certifications**, is deleted in its entirety and replaced with the **Revised Federal Assurances and Certifications**, attached hereto and incorporated herein in its entirety for all purposes as **ATTACHMENT B-1**.
3. **ATTACHMENT C-1** to the Contract, **Revised General Affirmations**, is deleted in its entirety and replaced with the **Revised General Affirmations**, attached hereto and incorporated herein in its entirety for all purposes as **ATTACHMENT C-2**.
4. This Amendment shall be effective upon the date of the last signature.
5. The terms and conditions of the Contract not amended herein shall remain in force and effect.

SIGNATURE PAGE FOLLOWS

**SIGNATURE PAGE FOR AMENDMENT NO. 4 TO
GLO CONTRACT NO. 19-094-014**

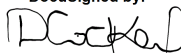
GENERAL LAND OFFICE

DRC CONSTRUCTION, LLC

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




7C299F4374E7497...
Mark A. Havens, Chief Clerk

Date of execution: 2/26/2024

DocuSigned by:

AE3C7E8B42E...
Name: Dawn Cockerill

Title: owner

Date of execution: 2/23/2024

OGC 
PM 
SDD 
DGC 
GC 
DLC 

ATTACHED TO THIS AMENDMENT:

ATTACHMENT B-1 Revised Federal Assurances and Certifications

ATTACHMENT C-2 Revised General Affirmations

ASSURANCES - CONSTRUCTION PROGRAMS

OMB Approval No. 4040-0009
 Expiration Date: 02/28/2025

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

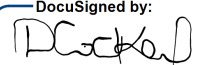
As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will 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.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards of merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of

Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
20. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL		TITLE	
<small>DocuSigned by:</small>  <small>AF3C7EB3783C42E</small>		Owner	
APPLICANT ORGANIZATION		DATE SUBMITTED	
DRC Construction, LLC		2/23/2024	

SF-424D (Rev. 7-97) Back

THIS FORM MUST BE EXECUTED

**CERTIFICATION REGARDING LOBBYING
COMPLIANT WITH APPENDIX A TO 24 C.F.R. PART 871***Certification for Contracts, Grants, Loans, and Cooperative Agreements:*

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact 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.

Statement for Loan Guarantees and Loan Insurance:

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

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above applicable certification.

NAME OF APPLICANT

DRC Construction, LLC

AWARD NUMBER AND/OR PROJECT NAME

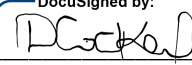
19-094-014

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Dawn Cockerill

Owner

SIGNATURE

DocuSigned by:


DATE

2/23/2024

1 24 C.F.R. 87 App. A, available at <https://www.gpo.gov/fdsys/granule/CFR-2011-title24-vol1/CFR-2011-title24-vol1-part87-appA>. Published Apr. 1, 2011. Accessed Aug. 1, 2018.

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
 (See reverse for public burden disclosure)

OMB Number: 4040-0013
 Expiration Date: 02/28/2025

1. *Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. *Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. *Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee *Name: _____ *Street 1: _____ Street 2: _____ *City: _____ State: _____ Zip: _____		
5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: 		
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Registrant Prefix _____ *First Name _____ Middle Name _____ *Last Name _____ Suffix _____ *Street 1: _____ Street 2: _____ *City: _____ State: _____ Zip: _____		
b. Individuals Performing Services (including address if different from No. 10a) Prefix _____ *First Name _____ Middle Name _____ *Last Name _____ Suffix _____ *Street 1: _____ Street 2: _____ *City: _____ State: _____ Zip: _____		
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. *Signature: _____ *Name: Prefix _____ *First Name _____ Middle Name _____ *Last Name _____ Suffix _____ Title: _____ Telephone No.: _____ Date: _____		
Federal Use Only:	Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

Federal Agency Form Instructions Form Identifiers	Information
Agency Owner	Grants.gov
Form Name	Disclosure of Lobbying Activities (SF-LLL)
Form Version Number	2.0
OMB Number	4040-0013
OMB Expiration Date	02/28/2025

Field Number	Field Name	Required or Optional	Information
1.	*Type of Federal Action:	Required	Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action. This field is required.
2.	*Status of Federal Action	Required	Identify the status of the covered Federal action. This field is required.
2-a.	a. Bid/Offer/ Application	Check if applicable	Click if the Status of Federal Action is a bid, an offer or an application.
2-b.	b. Initial Award	Check if applicable	Click if the Status of Federal Action is an initial award.
2-c.	c. Post-Award	Check if applicable	Click if the Status of Federal Action is a post-award.
3.0	*Report Type	Required	Identify the appropriate classification of this report.
3-a.	a. Initial filing	Check if applicable	Check if Initial filing.
3-b.	b. Material change	Check if applicable	If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the previously submitted report by this reporting entity for this covered Federal action. This field is required.
	Material Change Year	Conditionally Required	If this is a follow up report caused by a material change to the information previously reported, enter the year in which the change occurred.
	Material Change Quarter	Conditionally Required	If this is a follow up report caused by a material change to the information previously reported, enter the quarter in which the change occurred.
	Material Change Date of Last Report	Conditionally Required	Enter the date of the previously submitted report by this reporting entity for this covered Federal action.
4.	Name and Address of Reporting Entity	Required	Provide the information for Name and Address of Reporting Entity.
	Prime	Check if applicable	Click to designate the organization filing the report as the Prime Federal recipient.
	Subawardee	Check if applicable	Click to designate the organization filing the report as the SubAwardee Federal recipient. Sub-awards include but are not limited to subcontracts, subgrants and contract awards under grants.
	Tier if known:	Optional	Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier.
	Name	Required	Enter the name of reporting entity. This field is required
	Street 1	Required	Enter Street 1 of the reporting entity. This field is required.
	Street 2	Optional	Enter Street 2 of the reporting entity.
	City	Required	Enter City of the reporting entity This field is required.
	State	Required	Enter the state of the reporting entity. This field is required
	ZIP	Required	Enter the ZIP of the reporting entity. This field is required
	Congressional District, if known	Optional	Enter the primary Congressional District of the reporting entity. Enter in the following format: 2 character state abbreviation – 3 characters district number, e.g., CA-005 for California 5th district, CA-012 for California 12th district, NC-103 for North Carolina's 103rd district.
5.	If Reporting Entity in No. 4 is Subawardee, Enter Name and	Conditionally Required	If Reporting Entity in No. 4 is Subawardee, provide the information for the Name and Address of Prime

	Address of Prime		
	Name	Required	If the organization filing the report in item 4, checks "Subawardee", enter the full name of the prime Federal recipient.
	Street 1	Required	If the organization filing the report in item 4, checks "Subawardee", enter the address of the prime Federal recipient.
	Street 2	Optional	If the organization filing the report in item 4, checks "Subawardee", enter the address of the prime Federal recipient.
	City	Required	If the organization filing the report in item 4, checks "Subawardee", enter the city of the prime Federal recipient.
	State	Required	If the organization filing the report in item 4, checks "Subawardee", select the appropriate state from this pull down menu.
	ZIP	Required	Enter the ZIP of Prime. This field is required
	Congressional District, if known	Optional	Enter the Congressional District of Prime. Enter in the following format: 2 character state abbreviation – 3 characters district number, e.g., CA-005 for California 5th district, CA-012 for California 12th district, NC-103 for North Carolina's 103rd district.
6.	Federal Department /Agency	Required	Enter the name of the Federal Department or Agency making the award or loan commitment. This field is required.
7.	CFDA Number:	Required	Enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments. Pre-populated from SF-424 if using Grants.gov.
	CFDA Title:	Required	Enter the Federal program name or description for the covered Federal action. Pre-populated from SF-424 if using Grants.gov.
8.	Federal Action Number	Optional	Enter the most appropriate Federal identifying number available for the Federal action, identified in item 1 (e.g., Request for Proposal (RFP) number, invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/ proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".
9.	Award Amount	Optional	For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment of the prime entity identified in item 4 or 5.
10.a.	Name And Address of Lobbying Registrant	Required	Provide the information for the Name and Address of Lobbying Registrant.
	Prefix	Optional	Enter the prefix (e.g., Mr., Mrs., Miss), if appropriate, for the Lobbying Registrant.
	First Name	Required	Enter the first name of Lobbying Registrant. This field is required.
	Middle Name	Optional	Enter the middle name of Lobbying Registrant.
	Last Name	Required	Enter the last name of Lobbying Registrant. This field is required.
	Suffix	Optional	Enter the suffix (e.g., Jr. Sr., PhD), if appropriate, for the Lobbying Registrant.
	Street 1	Required	Enter the first line of street address for the Lobbying Registrant.
	Street 2	Optional	Enter the second line of street address for the Lobbying Registrant.
	City	Required	Enter the city of the Lobbying Registrant.
	State	Required	Select the appropriate state of the Lobbying Registrant.
	ZIP Code	Required	Enter the Zip Code (or ZIP+4) of the Lobbying Registrant.
10.b.	Individual Performing Services	Required	Provide the information for Individual Performing Services
	Prefix	Optional	Enter the prefix (e.g., Mr., Mrs., Miss), if appropriate, for the Individual Performing Services.
	First Name	Required	Enter the first name of the Individual Performing Services. This field is required.
	Middle Name	Optional	Enter the middle name of the Individual Performing Services.
	Last Name	Required	Enter the last name of the Individual Performing Services. This field is required.
	Suffix	Optional	Enter the suffix (e.g., Jr. Sr., PhD), if appropriate, for the Individual Performing Services.
	Street 1	Required	Enter the first line of street address for the Individual Performing Services.
	Street 2	Optional	Enter the second line of street address for the Individual Performing Services.
	City	Required	Enter the city of the Individual Performing Services.
	State	Required	Select the state for the address of the Individual Performing Services from this pull down menu.
	ZIP Code	Required	Enter the Zip Code (or ZIP+4) of the Individual Performing Services.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 4040-0013. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

GENERAL AFFIRMATIONS

TO THE EXTENT APPLICABLE, Contractor affirms and agrees to the following, without exception:

1. Contractor represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Contractor nor the firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such a firm, corporation, partnership, or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Contract or any solicitation response upon which this Contract is based to any competitor or any other person engaged in the same line of business as Contractor.*
2. Contractor shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from the GLO. Any attempted assignment or delegation in violation of this provision is void and without effect. This provision does not apply to subcontracting.
3. If the Contract is for services, Contractor shall comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts, but for contracts subject to 2 CFR 200, only to the extent such compliance is consistent with 2 CFR 200.319.
4. Under Section 231.006 of the Family Code, the vendor or applicant [Contractor] certifies that the individual or business entity named in this Contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate, in addition to other remedies set out in Section 231.006(f) of the Family Code.*
5. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application. Contractor certifies it has submitted this information to the GLO.*
6. If the Contract is for a “cloud computing service” as defined by Texas Government Code Section 2157.007, then pursuant to Section 2054.0593(d)-(f) of the Texas Government Code, relating to cloud computing state risk and authorization management program, Contractor represents and warrants that it complies with the requirements of the state risk and authorization management program and Contractor agrees that throughout the term of the Contract it shall maintain its certifications and comply with the program requirements in the performance of the Contract.
7. If the Contract is for the purchase or lease of computer equipment, as defined by Texas Health and Safety Code Section 361.952(2), Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code, related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in Title 30 Texas Administrative Code Chapter 328.
8. If the Contract authorizes Contractor to access, transmit, use, or store data for the GLO, then in accordance with Section 2054.138 of the Texas Government Code, Contractor certifies that it will comply with the security controls required under this Contract and will maintain

* This section does not apply to a contract with a “governmental entity” as defined in Texas Government Code Chapter 2251.

records and make them available to the GLO as evidence of Contractor's compliance with the required controls.

9. Contractor represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.
10. Contractor agrees that any payments due under the Contract shall be applied towards any debt or delinquency that is owed by Contractor to the State of Texas.
11. Upon request of the GLO, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.
12. If the Contract is for consulting services governed by Texas Government Code Chapter 2254, Subchapter B, in accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, Contractor certifies that it does not employ an individual who has been employed by the GLO or another agency at any time during the two years preceding the Contractor's submission of its offer to provide consulting services to the GLO or, in the alternative Contractor, in its offer to provide consulting services to the GLO, disclosed the following: (i) the nature of the previous employment with the GLO or other state agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation for the employment at the time of its termination.*
13. If the Contract is not for architecture, engineering, or construction services, then except as otherwise provided by statute, rule, or regulation, Contractor must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve any dispute arising under the Contract. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO OR, IF APPLICABLE, OF GOVERNMENTAL IMMUNITY BY CONTRACTOR.
14. If the Contract is for architecture, engineering, or construction services, then subject to Texas Government Code Section 2260.002 and Texas Civil Practice and Remedies Code Chapter 114, and except as otherwise provided by statute, rule, or regulation, Contractor shall use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve all disputes arising under this Contract. Except as otherwise provided by statute, rule, or regulation, in accordance with the Texas Civil Practice and Remedies Code, Section 114.005, claims encompassed by Texas Government Code, Section 2260.002(3) and Texas Civil Practice and Remedies Code Section 114.002 shall be governed by the dispute resolution process set forth below in subsections (a)-(d). NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO OR, IF APPLICABLE, OF GOVERNMENTAL IMMUNITY BY CONTRACTOR.
 - a. Notwithstanding Texas Government Code, Chapter 2260.002(3) and Chapter 114.012 and any other statute or applicable law, if Contractor's claim for breach of contract cannot be resolved by the Parties in the ordinary course of business, Contractor may make a claim against the GLO for breach of contract and the GLO may assert a counterclaim against Contractor as is contemplated by Texas Government Code, Chapter 2260, Subchapter B. In such event, Contractor must provide written notice to the GLO of a claim for breach of the Contract not later than the 180th day after the date of the event giving rise to the claim. The notice must state with particularity: (1) the nature of the

* This section does not apply to a contract with a "governmental entity" as defined in Texas Government Code Chapter 2251.

alleged breach; (2) the amount Contractor seeks as damages; and (3) the legal theory of recovery.

- b. The chief administrative officer, or if designated in the Contract, another officer of the GLO, shall examine the claim and any counterclaim and negotiate with Contractor in an effort to resolve them. The negotiation must begin no later than the 120th day after the date the claim is received, as is contemplated by Texas Government Code, Chapter 2260, Section 2260.052.
 - c. If the negotiation under paragraph (b) above results in the resolution of some disputed issues by agreement or in a settlement, the Parties shall reduce the agreement or settlement to writing and each Party shall sign the agreement or settlement. A partial settlement or resolution of a claim does not waive a Party's rights under this Contract as to the parts of the claim that are not resolved.
 - d. If a claim is not entirely resolved under paragraph (b) above, on or before the 270th day after the date the claim is filed with the GLO, unless the Parties agree in writing to an extension of time, the Parties may agree to mediate a claim made under this dispute resolution procedure. This dispute resolution procedure is Contractor's sole and exclusive process for seeking a remedy for an alleged breach of contract by the GLO if the Parties are unable to resolve their disputes as described in this section.
 - e. Nothing in the Contract shall be construed as a waiver of the state's or the GLO's sovereign immunity, or, if applicable, the governmental immunity of Contractor. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas or Contractor. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas or, if applicable, of Contractor under this Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies or immunities or be considered as a basis for estoppel. The GLO does not waive any privileges, rights, defenses, or immunities available to it by entering into this Contract or by its conduct, or by the conduct of any representative of the GLO, prior to or subsequent to entering into this Contract. Contractor does not waive any privileges, rights, defenses, or immunities available to it by entering into this Contract or by its conduct, or by the conduct of any representative of the GLO, prior to or subsequent to entering into this Contract.
 - f. Except as otherwise provided by statute, rule, or regulation, compliance with the dispute resolution process provided for in Texas Government Code, Chapter 2260, subchapter B and incorporated by reference in subsection (a)-(d) above is a condition precedent to the Contractor: (1) filing suit pursuant to Chapter 114 of the Civil Practices and Remedies Code; or (2) initiating a contested case hearing pursuant to Subchapter C of Chapter 2260 of the Texas Government Code.
15. If Chapter 2271 of the Texas Government Code applies to this Contract, Contractor verifies that it does not boycott Israel and will not boycott Israel during the term of the Contract.*
16. This Contract is contingent upon the continued availability of lawful appropriations by the Texas Legislature. Contractor understands that all obligations of the GLO under this Contract are subject to the availability of funds. If such funds are not appropriated or become

* This section does not apply to a contract with a "governmental entity" as defined in Texas Government Code Chapter 2251.

unavailable, the GLO may terminate the Contract. The Contract shall not be construed as creating a debt on behalf of the GLO in violation of Article III, Section 49a of the Texas Constitution.

17. Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.
18. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of the GLO, (2) a person who at any time during the four years before the effective date of the Contract was the executive head of the GLO, or (3) a person who employs a current or former executive head of the GLO.
19. Contractor represents and warrants that all statements and information prepared and submitted in connection with this Contract are current, complete, true, and accurate. Submitting a false statement or making a material misrepresentation during the performance of this Contract is a material breach of contract and may void the Contract or be grounds for its termination.
20. Pursuant to Section 2155.004(a) of the Texas Government Code, Contractor certifies that neither Contractor nor any person or entity represented by Contractor has received compensation from the GLO to participate in the preparation of the specifications or solicitation on which this Contract is based. Under Section 2155.004(b) of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate. This Section does not prohibit Contractor from providing free technical assistance.*
21. Contractor represents and warrants 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.*
22. In accordance with Section 2252.901 of the Texas Government Code, for the categories of contracts listed in that section, Contractor represents and warrants that none of its employees including, but not limited to, those authorized to provide services under the contract, were employees of the GLO during the twelve (12) month period immediately prior to the date of execution of the contract. Solely for professional services contracts as described by Chapter 2254 of the Texas Government Code, Contractor further represents and warrants that if a former employee of the GLO was employed by Contractor within one year of the employee's leaving the GLO, then such employee will not perform services on projects with Contractor that the employee worked on while employed by the GLO.*
23. The Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to any Party.

* This section does not apply to a contract with a "governmental entity" as defined in Texas Government Code Chapter 2251.

24. IF THE CONTRACT IS NOT FOR ARCHITECTURE OR ENGINEERING SERVICES GOVERNED BY TEXAS GOVERNMENT CODE CHAPTER 2254, CONTRACTOR, TO THE EXTENT ALLOWED BY LAW, SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE GLO, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. CONTRACTOR AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.*
25. IF THE CONTRACT IS FOR ARCHITECTURE OR ENGINEERING SERVICES GOVERNED BY TEXAS GOVERNMENT CODE CHAPTER 2254, CONTRACTOR, TO THE EXTENT ALLOWED BY LAW, SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE GLO, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY FEES, AND EXPENSES TO THE EXTENT CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILLFUL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY, AND/OR OTHERWISE RELATED TO CONTRACTOR'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO CONTRACTOR, OR ANY OTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. CONTRACTOR AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.*
26. TO THE EXTENT ALLOWED BY LAW, CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE GLO AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE

* This section does not apply to a contract with a "governmental entity" as defined in Texas Government Code Chapter 2251.

PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) THE GLO'S AND/OR CONTRACTOR'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE GLO BY CONTRACTOR OR OTHERWISE TO WHICH THE GLO HAS ACCESS AS A RESULT OF CONTRACTOR'S PERFORMANCE UNDER THE CONTRACT. CONTRACTOR AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, CONTRACTOR WILL REIMBURSE THE GLO AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE GLO DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF CONTRACTOR OR IF THE GLO IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, THE GLO WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR WILL PAY ALL REASONABLE COSTS OF THE GLO'S COUNSEL.*

27. Contractor has disclosed in writing to the GLO all existing or known potential conflicts of interest relative to the performance of the Contract.
28. Sections 2155.006 and 2261.053 of the Texas Government Code prohibit state agencies from accepting a solicitation response or awarding a contract that includes proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.*
29. The person executing this Contract certifies that he/she is duly authorized to execute this Contract on his/her own behalf or on behalf of Contractor and legally empowered to contractually bind Contractor to the terms and conditions of the Contract and related documents.
30. If the Contract is for architectural or engineering services, pursuant to Section 2254.0031 of the Texas Government Code, which incorporates by reference Section 271.904(d) of the Texas Local Government Code, Contractor shall perform services (1) with professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license, and (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.*

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31. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. The acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Contractor shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the Contract and the requirement to cooperate is included in any subcontract it awards. The GLO may unilaterally amend the Contract to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.
32. Contractor certifies that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in the Contract by any state or federal agency.
33. If the Contract is for the purchase or lease of covered television equipment, as defined by Section 361.971(3) of the Texas Health and Safety Code, Contractor certifies its compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code, related to the Television Equipment Recycling Program.
34. Pursuant to Section 572.069 of the Texas Government Code, Contractor certifies it has not employed and will not employ a former state officer or employee who participated in a procurement or contract negotiations for the GLO involving Contractor within two (2) years after the date that the contract is signed or the procurement is terminated or withdrawn. This certification only applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.
35. The GLO shall post this Contract to the GLO's website. Contractor understands that the GLO will comply with the Texas Public Information Act (Texas Government Code Chapter 552, the "PIA"), as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas (the "Attorney General"). Information, documentation, and other material in connection with this Contract may be subject to public disclosure pursuant to the PIA. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the GLO or the State of Texas pursuant to the Contract, and not otherwise excepted from disclosure under the PIA, available to the GLO in portable document file (".pdf") format or any other format agreed upon between the Parties that is accessible by the public at no additional charge to the GLO or the State of Texas. By failing to mark any information that Contractor believes to be excepted from disclosure as "confidential" or a "trade secret," Contractor waives any and all claims it may make against the GLO for releasing such information without prior notice to Contractor. The Attorney General will ultimately determine whether any information may be withheld from release under the PIA. Contractor shall notify the GLO's Office of General Counsel within twenty-four (24) hours of receipt of any third-party written requests for information and forward a copy of said written requests to PIALegal@glo.texas.gov. If a request for information was not written, Contractor shall forward the third party's contact information to the above-designated e-mail address.

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36. The GLO does not tolerate any type of fraud. GLO policy promotes consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Contractor must report any possible fraud, waste, or abuse that occurs in connection with the Contract to the GLO in the manner prescribed by the GLO's website, <http://glo.texas.gov>.
37. If Contractor, in its performance of the Contract, has access to a state computer system or database, Contractor must complete a cybersecurity training program certified under Texas Government Code Section 2054.519, as selected by the GLO. Contractor must complete the cybersecurity training program during the initial term of the Contract and during any renewal period. Contractor must verify in writing to the GLO its completion of the cybersecurity training program.
38. Under Section 2155.0061, Texas Government Code, Contractor certifies that the entity named in this Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.*
39. Contractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded contract.
40. Pursuant to Government Code Section 2275.0102, Contractor certifies that neither it nor its parent company, nor any affiliate of Contractor or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2275.0103, or (2) headquartered in any of those countries.*
41. If Contractor is required to make a verification pursuant to Section 2276.002 of the Texas Government Code, Contractor verifies that Contractor does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Contractor does not make that verification, Contractor must notify the GLO and state why the verification is not required.*
42. If Contractor is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Contractor verifies that it (1) 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 and (2) will not discriminate during the term of the Contract against a firearm entity or firearm trade association. If Contractor does not make that verification, Contractor must notify the GLO and state why the verification is not required.*
43. If Contractor is a "professional sports team" as defined by Texas Occupations Code Section 2004.002, Contractor will play the United States national anthem at the beginning of each team sporting event held at Contractor's home venue or other venue controlled by Contractor for the event. Failure to comply with this obligation constitutes a default of this Contract, and immediately subjects Contractor to the penalties for default, such as repayment of money received or ineligibility for additional money. In addition, Contractor may be debarred from

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contracting with the State. The GLO or the Attorney General may strictly enforce this provision.*

44. To the extent Section 552.371 of the Texas Government Code applies to Contractor and the Contract, in accordance with Section 552.372 of the Texas Government Code, Contractor must (a) preserve all contracting information related to the Contract in accordance with the records retention requirements applicable to the GLO for the duration of the Contract, (b) no later than the tenth business day after the date of the GLO's request, provide to the GLO any contracting information related to the Contract that is in Contractor's custody or possession, and (c) on termination or expiration of the Contract, either (i) provide to the GLO at no cost all contracting information related to the Contract that is in Contractor's custody or possession or (ii) preserve the contracting information related to the Contract in accordance with the records retention requirements applicable to the GLO. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552, Government Code, may apply to the Contract and Contractor agrees that the Contract may be terminated if Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.*
45. If the Contract is for consulting services governed by Chapter 2254 of the Texas Government Code, Contractor, upon completion of the Contract, must give the GLO a compilation, in a digital medium agreed to by the Parties, of all documents, films, recordings, or reports Contractor compiled in connection with its performance under the Contract.*
46. If subject to 2 CFR 200.216, Contractor shall not obligate or expend funding provided under this Contract to: (a) procure or obtain; (b) extend or renew a contract to procure or obtain; or (c) enter into a contract to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services, as defined in Public Law 115-232, Section 889, as a substantial or essential component of any system, or as critical technology as part of any system.
47. To the extent Texas Government Code Chapter 2252, Subchapter G applies to the Contract, any iron or steel product Contractor uses in its performance of the Contract that is produced through a manufacturing process, as defined in Section 2252.201(2) of the Texas Government Code, must be produced in the United States.

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**AMENDMENT NO. 5 TO
GLO CONTRACT NO. 19-094-014**

THE GENERAL LAND OFFICE (the “GLO”) and **DRC CONSTRUCTION, LLC** (“Contractor”), each a “Party” and collectively “the Parties” to GLO Contract No. 19-094-014 (the “Contract”), desire to amend the Contract. Therefore, the Parties agree as follows:

1. **SECTION 2.01** of the Contract is amended to reflect a termination date of **June 30, 2026**.
2. This Amendment shall be effective upon the date of the last signature.
3. The terms and conditions of the Contract not amended herein shall remain in force and effect.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE FOR AMENDMENT NO. 5 TO
GLO CONTRACT NO. 19-094-014

GENERAL LAND OFFICE

DRC CONSTRUCTION, LLC

DocuSigned by:
Jennifer G Jones
E70CDF09B56540E...
Jennifer G. Jones
Chief Clerk
Date of execution: 7/10/2024

DocuSigned by:
Dawn Cockerill
AE3C7EB3763C42E...
Name: Dawn Cockerill
Title: Owner
Date of execution: 7/10/2024

OGC gm
PM RD
SDD HL
DGC MB
GC JG