



GLO CONTRACT NO. 23-064-012-D810
MULTI-FAMILY RESIDENTIAL CONSTRUCTION REPAIR SERVICES GRANT AGREEMENT
DISASTER RECOVERY PROGRAM HOUSING PROJECTS
NON-RESEARCH & DEVELOPMENT
2019 DISASTERS FUNDING

The **GENERAL LAND OFFICE** (the “GLO”), a Texas state agency, and **NC PC, LLC**, Texas Identification Number (TIN) **18708867306** (“Developer”), each a “Party” and collectively the “Parties,” enter into this agreement (the “Contract”) under the U.S. Department of Housing and Urban Development’s Community Development Block Grant – Disaster Recovery (“CDBG-DR”) program to provide financial assistance with funds appropriated under 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 accordance with Executive Order 12892, in the most impacted and distressed areas resulting from a major disaster that occurred in 2018 or 2019, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121 *et seq.*).

Through CDBG-DR Federal Award Number B- 19- DF- 48- 0001, awarded March 22, 2021, as may be amended from time to time, the GLO administers grant funds as Community Development Block Grants (Catalog of Federal Domestic Assistance Number 14.228, “Community Development Block Grants/State’s program and Non-Entitlement Grants in Hawaii”), as approved by the Texas Land Commissioner and limited to use for facilitating recovery efforts in Presidentially-declared major disaster areas.

ARTICLE I - GENERAL PROVISIONS

1.01 SCOPE OF PROJECT AND SUBAWARD

(a) **Scope of Project**

The purpose of this Contract is to set forth the terms and conditions of Developer’s participation in the CDBG-DR program. In strict conformance with the terms and conditions of this Contract, Developer shall perform, or cause to be performed, the new construction, reconstruction, or rehabilitation of affordable multifamily housing developments as described in **Attachment A** (the “Project”). Developer shall conduct the Project in strict accordance with this Contract, including all Contract Documents listed in **Section 1.02**, below, and any Amendments or Technical Guidance Letters issued by the GLO.

(b) **Subaward**

Developer submitted an Application under the Program. The GLO enters into this Contract based on Developer's approved Grant Application.

Subject to the terms and conditions of this Contract and Developer's approved Grant Application, the GLO shall issue a subaward to Developer in an amount not to exceed **\$5,000,000.00**, payable as reimbursement of Developer's allowable expenses, to be used in strict conformance with the terms of this Contract and the Performance Statement in **Attachment A**.

The GLO is not liable to Developer for any costs Developer incurs before the effective date of this Contract or after the expiration or termination of this Contract. The GLO, in its sole discretion, may reimburse Developer for allowable costs incurred before the effective date of this Contract, in accordance with federal law.

1.02 CONTRACT DOCUMENTS

This Contract and the following Attachments, attached hereto and incorporated herein in their entirety for all purposes, shall govern this Contract:

- ATTACHMENT A:** Performance Statement
- ATTACHMENT B:** Federal Assurances and Certifications
- ATTACHMENT C:** General Affirmations
- ATTACHMENT D:** Nonexclusive List of Applicable Laws, Rules, and Regulations
- ATTACHMENT E:** Required Insurance and Form of Certificate
- ATTACHMENT F:** Required Bonds
- ATTACHMENT G:** GLO Information Security Appendix (CDBG)
- ATTACHMENT H:** Sample Land Use Restriction Agreement

1.03 GUIDANCE DOCUMENTS

Developer is deemed to have read and understood, and shall abide by, all Guidance Documents applicable to the CDBG-DR program, including, without limitation, the following:

- (a) 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- (b) the relevant Federal Register publications;
- (c) the Action Plan;
- (d) Other guidance posted at: <https://recovery.texas.gov/2018-floods-2019-disasters/programs/2018-2019-affordable-rental/index.html>; and
- (e) Other guidance posted at: <https://www.hudexchange.info/>.

All Guidance Documents identified herein are incorporated herein in their entirety for all purposes.

1.04 DEFINITIONS

“[Action Plan](#)” means the State of Texas CDBG-DR (“CDBG-DR”) Action Plan, as amended, found at <https://recovery.texas.gov/action-plans/2019-disasters/index.html>.

“[Activity](#)” means a defined class of works or services eligible to be accomplished using CDBG-DR funds. Activities are specified in Developer’s Performance Statement in **Attachment A**.

“[Administrative and Audit Regulations](#)” means all applicable statutes, regulations, and other laws governing administration or audit of this Contract (including the regulations included in Title 2, Part 200, of the Code of Federal Regulations; Chapter 321 of the Texas Government Code; Subchapter F of Chapter 2155 of the Texas Government Code; and the requirements of Article VII herein).

“[Amendment](#)” means a written agreement, signed by the Parties hereto, that documents alterations to the Contract other than those permitted by Technical Guidance Letters, as herein defined.

“[Application](#)” or means the information Developer provided to the GLO that is the basis for the award of funding under this Contract.

“[Attachment](#)” means documents, terms, conditions, or additional information physically added to this Contract following the execution page or included by reference.

“[Audit Certification Form](#)” means the form, as specified in the GLO Guidance Documents, that Developer will complete and submit to the GLO annually, in accordance with **Section 4.01** of this Contract, to identify Developer’s fiscal year expenditures.

“[Budget](#)” means the budget for the Activities funded by the Contract, a copy of which is included in **Attachment A**.

“[CDBG-DR](#)” means the Community Development Block Grant Disaster Recovery program administered by the U.S. Department of Housing and Urban Development. Such program includes residential repair, construction, reconstruction, or rehabilitation projects or programs administered by HUD in cooperation with the GLO.

“[C.F.R.](#)” means the United States Code of Federal Regulations, the codification of the general and permanent rules and regulations (sometimes called administrative law) published in the Federal Register by the executive departments and agencies of the federal government of the United States.

“[Contract](#)” means this entire document; any Attachments, both physical and incorporated by reference; and any Amendments or Technical Guidance Letters the GLO may issue, to be incorporated by reference herein for all purposes as they are issued.

“[Contract Documents](#)” means the documents listed in **Section 1.02**.

“[Contract Period](#)” means the period of time between the effective date of the Contract and its expiration or termination date.

“[Developer](#)” means a private individual or a profit-making organization receiving CDBG-DR funds as a beneficiary under this Contract for the purposes of completing the construction, reconstruction, or rehabilitation of multi-family residential properties for which at least 51% of the units shall be dedicated to serving low- to moderate-income residents.

“[Developer Fee](#)” means the fee paid to Developer as compensation for the development of the Project and oversight of construction through completion.

“[Environmental Review Record](#)” or “[ERR](#)” means the cumulative documentation required for each Activity or project to certify whether or not the Activity or project was found to have significant impacts on the environment and certify that, in order to reach said conclusion, the required environmental review process was completed in accordance with HUD’s environmental regulations.

“[Equipment](#)” means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by Developer for financial statement purposes or \$5,000, as further defined at 2 C.F.R. § 200.313.

“[Event of Default](#)” means the occurrence of any of the events set forth in **Section 3.03**, herein.

“[Extremely Low Income](#)” or “[ELI](#)” means a family or individual household whose annual income does not exceed the higher of either the poverty guidelines or thirty percent (30%) of the median family income.

“[Federal Assurances](#)” means Standard Form 424B (for non-construction projects) or Standard Form 424D (for construction projects), as applicable, in **Attachment B**, attached hereto and incorporated herein for all purposes.

“[Federal Certifications](#)” means the document titled “Certification Regarding Lobbying – Compliant with Appendix A to 24 C.F.R. Part 87” and Standard Form LLL, “Disclosure of Lobbying Activities,” also in **Attachment B**, attached hereto and incorporated herein for all purposes.

“[Federal Register](#)” means the official journal of the federal government of the United States that contains government agency rules, proposed rules, and public notices, including U.S. Department of Housing and Urban Development’s Federal Register Notices 85 Fed. Reg. 4681 (January 27, 2020), 86 Fed. Reg. 569 (January 6, 2021), and any other publication affecting the CDBG-DR funding allocations for this Contract.

“[Fiscal Year](#)” means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

“[GAAP](#)” means “generally accepted accounting principles.”

“[GASB](#)” means accounting principles as defined by the Governmental Accounting Standards Board.

“[General Affirmations](#)” means the affirmations in **Attachment C**, which Developer certifies by signing this Contract.

“GLO” means the Texas General Land Office and its officers, employees, and designees, acting in their official capacities.

“GLO Implementation Manual” means the manual created by the GLO for Developers who receive CDBG-DR grant allocations to provide guidance and training on the policies and procedures required so that Developers can effectively complete CDBG-DR Projects and timely spend grant funds.

“Grant Manager” means the authorized representative of the GLO responsible for the day-to-day management of the grant.

“Guidance Documents” means the documents referenced in **Section 1.03**.

“HUD” means the United States Department of Housing and Urban Development.

“Intellectual Property” means patents, rights to apply for patents, trademarks, trade names, service marks, domain names, copyrights and all applications and worldwide registration of such, schematics, industrial models, inventions, know-how, trade secrets, computer software programs, other intangible proprietary information, and all federal, state, or international registrations or applications for any of the foregoing.

“Land Use Restriction Agreement” or “LURA” means the Land Use Restriction Agreement, in a similar form to the document attached hereto and incorporated by reference for all purposes as **Attachment H** (as approved by the GLO), that is to be executed by Developer and sets forth certain occupancy and rental restrictions as contained therein (as it may be amended from time to time) for the Project.

“Low- and Moderate-Income” or “LMI” means a family or individual household whose annual income does not exceed eighty percent (80%) of the median family income or such other income limits as determined by HUD. This definition includes Very-Low-, Low-, and Moderate-Income households.

“Milestone” means the benchmarks identified in **Attachment A** that define actions and tasks required to be completed by Developer for release of funding by the GLO throughout the life of the Contract.

“New Construction” means the construction of a single-family housing unit or a multi-family residential complex on property not formerly used for residential purposes.

“Performance Statement” means the statement of work for the Project in **Attachment A**, which includes specific Milestones and Activities and provides specific Project details.

“Program” means the CDBG-DR program, administered by HUD and the GLO.

“Program Guidelines” means any and all GLO-approved documents reflecting specific rules and regulations governing the implementation of the Program.

“Progress Tracker and Construction Schedule” means the GLO-approved document outlining the Project’s construction schedule and correlating budget milestones.

“Project” means the work to be performed under this Contract, as described in **Section 1.01(a)** and **Attachment A**.

“[Project Completion Report](#)” means a report containing an as-built accounting of all Activities completed under the Project and all information required for final acceptance of Milestones and Contract closeout.

“[Public Information Act](#)” or “[PIA](#)” means Chapter 552 of the Texas Government Code.

“[Reconstruction](#)” means the demolition and rebuilding of a single-family housing unit or a multi-family residential complex that replaces a similar structure on the same property.

“[Rehabilitation](#)” means the repair or restoration of an existing single-family housing unit or a multi-family residential complex.

“[Start-Up Documentation](#)” means the documents identified by the Grant Manager and Program Guidelines that must be completed and/or submitted to the GLO as specified in **Section 4.01**, below, before the GLO may reimburse Developer for any invoiced expenses.

“[Technical Guidance Letter](#)” or “[TGL](#)” means an instruction, clarification, or interpretation of the requirements of this Contract or the CDBG-DR Program that is issued by the GLO and provided to Developer, applicable to specific subject matters pertaining to this Contract, and to which Developer shall be subject as of a specific date.

“[Texas Integrated Grant Reporting System](#)” or “[TIGR](#)” means the GLO system of record for documenting and reporting the use of grant funding.

“[U.S.C.](#)” means the United States Code.

1.05 INTERPRETIVE PROVISIONS

- (a) The meaning of a defined term applies to its singular and plural forms.
- (b) The words “hereof,” “herein,” “hereunder,” and similar words refer to this Contract as a whole and not to any particular provision, section, Attachment, or schedule of this Contract unless otherwise specified.
- (c) The term “including” means “including, without limitation.”
- (d) Unless otherwise expressly provided, a reference to a contract includes subsequent amendments and other modifications thereto that were executed according to the contract’s terms and a reference to a statute, regulation, ordinance, or other law includes subsequent amendments, renumbering, recodification, and other modifications thereto made by the enacting authority.
- (e) The captions and headings of this Contract are for convenience of reference only and shall not affect the interpretation of this Contract.
- (f) The limitations, regulations, and policies contained herein are cumulative and each must be performed in accordance with its terms without regard to other limitations, regulations, and policies affecting the same matter.
- (g) Unless otherwise expressly provided, reference to any GLO action by way of consent, approval, or waiver is deemed modified by the phrase “in its sole discretion.” Notwithstanding the preceding, the GLO shall not unreasonably withhold or delay any consent, approval, or waiver required or requested of it.

- (h) All due dates and/or deadlines referenced in this Contract that occur on a weekend or holiday shall be considered as if occurring on the next business day.
- (i) All time periods in this Contract shall commence on the day after the date on which the applicable event occurred, report is submitted, or request is received.
- (j) Time is of the essence in this Contract.
- (k) In the event of conflicts or inconsistencies between this Contract, its Attachments, federal and state requirements, and any documents incorporated herein by reference, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: all applicable laws, rules, and regulations, including, but not limited to, those included in **Attachment D**; the Contract; **Attachment A**; **Attachment F**; **Attachment B**; **Attachment C**; **Attachment G**; **Attachment E**; **Attachment H**; and applicable Guidance Documents. Conflicts or inconsistencies between GLO Implementation Manual and this Contract; any laws, rules, or regulations; or any of the Guidance Documents should be reported to the GLO for clarification of the GLO Implementation Manual.

ARTICLE II – REIMBURSEMENT, ADVANCE PAYMENT, BUDGET VARIANCE, AND INCOME

2.01 INVOICES

Each invoice submitted by Developer shall be supported by actual receipts, cancelled checks, and/or such other documentation that, in the judgment of the GLO, allows for full substantiation of the costs incurred. Requests for payment must be submitted via the GLO's Texas Integrated Grant Reporting ("TIGR") system of record or as otherwise specified in a Technical Guidance Letter issued under this Contract.

Developer will be paid in accordance with the Contract Budget and Milestones described in **Attachment A**. Failure by Developer to perform any action or complete any task as described in **Attachment A** or the Progress Tracker and Construction Schedule could result in the GLO placing a hold on further Developer draws, conducting an official monitoring risk assessment, or requiring repayment, in part or in full, by Developer of drawn funds in addition to other remedies provided to the GLO under this Contract.

2.02 TIMELY EXPENDITURES

In accordance with the Federal Register and to ensure timely expenditure of grant funds, Developer shall submit invoices under this Contract no more than once per month.

Developer shall make timely payments to its subcontractors in accordance with Chapter 2251 of the Texas Government Code.

Developer shall submit final invoices to the GLO prior to Contract expiration or termination. The GLO, in its sole discretion, may deny payment and de-obligate remaining funds from the Contract upon expiration or termination of the Contract. The GLO's ability to de-obligate funds under this **Section 2.02** notwithstanding, the GLO shall pay all eligible invoiced amounts that are timely submitted.

2.03 VARIANCE

Amendments to decrease or increase the grant amount or to add or delete an Activity may be made only by written agreement of the Parties, under the formal Amendment process described in **Section 8.17**, below. The GLO may, in its sole discretion and in conformance with federal law, approve other adjustments required during Project performance through a Technical Guidance Letter. Such approvals must be in writing and may be delivered by regular or electronic mail.

DEVELOPER SHALL SUBMIT TO THE GLO A FINAL BUDGET AND ACTUAL EXPENDITURES AS PART OF THE PROJECT COMPLETION REPORT PRIOR TO CONTRACT EXPIRATION OR TERMINATION OR AT THE CONCLUSION OF ALL CONTRACT ACTIVITIES, WHICHEVER OCCURS FIRST. THE PROJECT COMPLETION REPORT SHALL BE IN A FORMAT PRESCRIBED BY THE GLO AND SHALL CONFIRM ELIGIBILITY AND COMPLETION OF ALL ACTIVITIES PERFORMED UNDER THIS CONTRACT. FAILURE TO SUBMIT THE FINAL BUDGET AND ACTUAL EXPENDITURES TO THE GLO AS PART OF THE PROJECT COMPLETION REPORT PRIOR TO CONTRACT EXPIRATION OR TERMINATION WILL RESULT IN FORFEITURE AND DE-OBLIGATION OF REMAINING UNREQUESTED FUNDS.

Upon completion of the Project, the GLO shall formally close out the Project by issuing a closeout letter to Developer.

2.04 DEVELOPER FEE

Developer agrees to be compensated for the development and oversight of the Project through the payment of the Developer Fee. The Developer Fee shall be outlined in the Progress Tracker and Construction Schedule and is subject to a cost reasonableness analysis by the GLO. The amount of Developer Fee eligible to be invoiced shall be calculated on a pro rata basis that correlates with the total percentage of Project completion.

ARTICLE III - DURATION, EXTENSION, AND TERMINATION OF CONTRACT

3.01 DURATION OF CONTRACT AND EXTENSION OF TERM

This Contract shall become effective on the date on which it is signed by the last Party and shall terminate on **February 28, 2025**, or upon the completion of all Milestones listed in **Attachment A** and required closeout procedures, whichever occurs first (“Contract Period”). **Developer must meet all Milestones identified in Attachment A. Developer’s failure to meet any Milestone may result in suspension of payment or termination under Sections 3.02, 3.03, or 3.04, below.**

Upon receipt of a written request and acceptable justification from Developer, the GLO, at its discretion, may agree to amend this Contract to extend the Contract Period one time for a period of up to two years. **ANY REQUEST FOR EXTENSION MUST BE RECEIVED BY THE GLO AT LEAST SIXTY (60) DAYS BEFORE THE ORIGINAL TERMINATION DATE OF THIS CONTRACT AND, IF APPROVED, SUCH EXTENSION SHALL BE DOCUMENTED IN A WRITTEN AMENDMENT.**

3.02 EARLY TERMINATION

The GLO may terminate this Contract by giving written notice specifying a termination date at least thirty (30) days after the date of the notice. Upon receipt of such notice, Developer shall cease work, terminate any subcontracts, and incur no further expense related to this Contract. Such early termination shall be subject to the equitable settlement of the respective interests of the Parties, accrued up to the date of termination.

3.03 EVENTS OF DEFAULT

Each of the following events shall constitute an Event of Default under this Contract: (a) Developer fails to comply with any term, covenant, or provision contained in this Contract; (b) Developer makes a general assignment for the benefit of creditors or takes any similar action for the protection or benefit of creditors; or (c) Developer makes a materially incorrect representation or warranty in a Performance Statement, an invoice submitted for payment, or any report submitted to the GLO under the Contract. Prior to a determination of an Event of Default, the GLO shall allow a thirty (30) day period to cure any deficiency or potential cause of an Event of Default. The GLO may extend the time allowed to cure any deficiency or potential cause of an Event of Default. The GLO shall not arbitrarily withhold approval of an extension of the time allowed to cure a deficiency or potential cause of an Event of Default. In no event shall the amount of time allowed to cure a deficiency or potential cause of an Event of Default extend beyond the Contract Period.

Following termination under this **Section 3.03**, Developer may be suspended or debarred from receiving future funding under the CDBG-DR Program. The GLO, in its sole discretion and in accordance with State and federal regulations, shall determine the period of suspension or debarment based upon the extent of the abandonment or default.

3.04 REMEDIES; NO WAIVER

Upon the occurrence of any Event of Default, the GLO may avail itself of any equitable or legal remedy available to it, including without limitation, withholding payment, disallowing all or part of noncompliant Activities, or suspending or terminating the Contract.

The Parties' rights or remedies under this Contract are not intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this Contract, or hereafter legally existing, upon the occurrence of an Event of Default. The GLO's failure to insist upon the strict observance or performance of any of the provisions of this Contract or to exercise any right or remedy provided in this Contract shall not impair, waive, or relinquish any such right or remedy with respect to another Event of Default.

3.05 REVERSION OF ASSETS

Upon expiration or termination of the Contract and subject to this Article:

- (a) If applicable, Developer shall transfer to the GLO any CDBG-DR funds Developer has in its possession at the time of expiration or termination that are

not attributable to work performed on the Project and any accounts receivable attributable to the use of CDBG-DR funds awarded under this Contract; and

- (b) If applicable, real property under Developer's control that was acquired or improved, in whole or in part, with funds in excess of \$25,000 under this Contract shall be used to meet one of the CDBG-DR National Objectives pursuant to 24 C.F.R. § 570.208, as identified in the Action Plan, until five (5) years after the expiration of this Contract or such longer period of time as the GLO deems appropriate. If Developer fails to use the CDBG-DR funded real property in a manner that meets a CDBG-DR National Objective for the prescribed period of time, Developer shall pay the GLO an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG-DR funds for acquisition of, or improvement to, the property. Developer may retain real property acquired or improved under this Contract after the expiration of the five-year period or such longer period of time as the GLO deems appropriate.

ARTICLE IV - CONTRACT ADMINISTRATION

4.01 SUBMISSIONS – GENERALLY

Except for legal notices that must be sent by specific instructions pursuant to **Section 8.11** of the Contract, any report, form, document, or request required to be submitted to the GLO under this Contract shall be sent in the format prescribed by the GLO.

If Developer fails to submit to the GLO any required Program documentation in a timely and satisfactory manner as required under this Contract, the GLO, in its sole discretion, may issue a delinquency notification and withhold any payments, pending Developer's correction of the deficiency.

(a) **Start-Up Documentation**

Not later than the close of business sixty (60) calendar days after the effective date of this Contract, Developer must submit its Start-Up Documentation to the GLO for review and approval. Start-up documentation includes, at a minimum, the following:

- (i) A complete Progress Tracker and Construction Schedule describing the tasks to be completed under each Milestone;
- (ii) Documentation substantiating availability and control of all funding sources necessary to complete the Project; and
- (iii) Any other supporting documentation deemed necessary by the GLO.

(b) **Audit Certification Form**

No later than the close of business sixty (60) calendar days after the end of Developer's fiscal year for each year during the Contract term, Developer must submit a completed Audit Certification Form to the GLO.

(c) **Other Forms**

In conformance with required state and federal laws applicable to the Contract:

- (i) Developer certifies, by the execution of this Contract, all applicable statements in **Attachment C**, General Affirmations;
- (ii) Developer must execute Standard Form 424D, Federal Assurances for Construction Programs, found at Page 1 of **Attachment B**;
- (iii) Developer must execute the “Certification Regarding Lobbying Compliant with Appendix A to 24 C.F.R. Part 87,” found at Page 3 of **Attachment B**; and
- (iv) If any funds granted under this Contract have been used for lobbying purposes, Developer must complete and execute Standard Form LLL, “Disclosure of Lobbying Activities,” found at Page 4 of **Attachment B**.

4.02 SECTION 3 REPORTING REQUIREMENTS

In accordance with 24 C.F.R. § 75.25, Developer is required to submit to the GLO quarterly reports documenting actions taken to comply with the employment, training, and contracting requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended ([12 U.S.C. § 1701u](#)), the results of such actions taken, and impediments encountered (if any) to such actions. Developer should maintain records of job vacancies, solicitations of bids or proposals, selection materials and contracting documents (including scopes of work and contract amounts), in accordance with procurement laws and regulations. Records should demonstrate Developer’s efforts to achieve the Section 3 numerical goals.

Section 3 quarterly reports are due on the 10th of the month following the quarter’s close. The schedule is as follows:

- Quarter 1 (Sept-Nov): Due **December 10th**
- Quarter 2 (Dec-Feb): Due **March 10th**
- Quarter 3 (Mar-May): Due **June 10th**
- Quarter 4 (Jun-Aug): Due **September 10th**

Developer is also required to submit an annual report, due on **September 30** of each year during the Contract Period. Forms for the Section 3 quarterly and annual reports may be found at <https://recovery.texas.gov/local-government/resources/infrastructure/index.html>. Developer must submit completed forms to the GLO through the TIGR system, as instructed by the GLO Grant Manager.

If Developer conducts no hiring or contracting efforts during a quarter, Developer must report zeros in the quarterly report fields for such and add a note in the “other efforts, see remarks below” field that states that fact.

Developer is not required to develop and implement a Section 3 Plan and assign a Section 3 Coordinator, but these actions are considered best practices.

ARTICLE V - FEDERAL AND STATE FUNDING, RECAPTURE OF FUNDS, AND OVERPAYMENT

5.01 FEDERAL FUNDING

- (a) Funding for this Contract is appropriated by the Congress of the United States under the act(s) listed in the table below and allocated to the State of Texas by

HUD in accordance with Executive Order 12892, to fund disaster relief and recovery efforts in presidentially-declared major disaster areas, as defined in Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

Congressional Act	Federal Award Identification Number (FAIN)
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 <i>et seq.</i>) 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 in 2018 or 2019	B-19-DF-48-0001

The fulfillment of this Contract is based on those funds being made available under Catalog of Federal Domestic Assistance (CFDA) No. 14.228 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, Developer acknowledges that all funds are subject to recapture and repayment for noncompliance.

- (b) **Developer must have an assigned Unique Entity Identifier (UEID) and a Commercial and Government Entity (CAGE) code. Developer must report its UEID and CAGE code to the GLO for use in various reporting documents.** A UEID and CAGE code may be obtained by visiting the System for Award Management website at <https://www.sam.gov>. **Developer is responsible for renewing its registration with the System for Award Management annually and maintaining an active registration status throughout the Contract Period.**

5.02 STATE FUNDING

- (a) This Contract shall not be construed as creating any debt on behalf of the State of Texas or the GLO in violation of Article III, Section 49, of the Texas Constitution. The GLO's obligations hereunder are subject to the availability of state funds. If adequate funds are not appropriated or become unavailable, the GLO may terminate this Contract. In that event, the Parties shall be discharged from further obligations, subject to the equitable settlement of their interests accrued up to the date of termination.
- (b) Any claim by Developer for damages under this Contract may not exceed the amount of payment due and owing Developer or the amount of funds appropriated for payment but not yet paid to Developer under this Contract. Nothing in this provision shall be construed as a waiver of the GLO's sovereign immunity.

5.03 RECAPTURE OF FUNDS

Developer shall conduct, in a satisfactory manner as determined by the GLO, the Activities as set forth in the Contract. The discretionary right of the GLO to terminate for convenience under **Section 3.02** notwithstanding, the GLO may terminate the Contract and recapture, and be reimbursed by Developer for, any payments made by the GLO (a) that exceed the maximum allowable HUD rate; (b) that are not allowed under applicable laws, rules, and regulations; or (c) that are otherwise inconsistent with this Contract, including any unapproved expenditures. **This recapture provision applies to any CDBG-DR funds expended for the Project or any Activity that does not meet a CDBG-DR Program national objective as specified in the Performance Statement in Attachment A or that is not otherwise eligible under CDBG-DR regulations.**

5.04 OVERPAYMENT AND DISALLOWED COSTS

Developer shall be liable to the GLO for any funds received for costs subsequently disallowed under this Contract, including overpayment of funds. Developer shall reimburse the GLO for such disallowed costs from funds that were not provided or otherwise made available to Developer under this Contract. Developer must refund disallowed costs and overpayments of funds received under this Contract to the GLO within 30 days after the GLO issues notice of overpayment to Developer.

5.05 FINAL BENCHMARK

To ensure full performance of each construction Activity and the Project, the GLO has set aside an amount up to ten percent (10%) of Developer's direct construction costs per Activity until completion and acceptance by the GLO of all actions and tasks for the Activity, as described in **Attachment A** and the Progress Tracker and Construction Schedule. The GLO shall make the final disbursement to Developer only upon the GLO's receipt and acceptance of the Milestones and tasks identified in **Attachment A** and the Progress Tracker and Construction Schedule as required for the completion of the construction phase.

ARTICLE VI - INTELLECTUAL PROPERTY

6.01 OWNERSHIP AND USE

- (a) The Parties shall jointly own all right, title, and interest in and to all reports, drafts of reports, or other material, data, drawings, computer programs and codes associated with this Contract, and/or any copyright or other intellectual property rights, and any material or information developed and/or required to be delivered under this Contract, with each Party having the right to use, reproduce, or publish any or all of such information and other materials without obtaining permission from the other Party, subject to any other restrictions on publication outlined in this Contract, and without expense or charge.
- (b) Developer grants the GLO and HUD a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for U.S. Government purposes, all reports, drafts of reports, or other material, data, drawings, computer programs, and codes associated with this

Contract, and/or any copyright or other intellectual property rights, and any material or information developed and/or required to be delivered under this Contract.

6.02 NON-ENDORSEMENT BY STATE AND THE UNITED STATES

Developer shall not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still or motion pictures, articles, manuscripts, or other publications) that states or implies the GLO, the State of Texas, U.S. Government, or any government employee, endorses a product, service, or position Developer represents. Developer may not release information relating to this Contract or state or imply that the GLO, the State of Texas, or the U.S. Government approves of Developer's work products or considers Developer's work product to be superior to other products or services.

6.03 DISCLAIMER REQUIRED

On all public information releases issued pursuant to this Contract, Developer shall include a disclaimer stating that the funds for this Project are provided by Developer and the Texas General Land Office through HUD's CDBG-DR Program.

ARTICLE VII - RECORDS, AUDIT, AND RETENTION

7.01 BOOKS AND RECORDS

Developer shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary for fully disclosing to the GLO, the Texas State Auditor's Office, the United States Government, and/or their authorized representatives sufficient information to determine Developer's compliance with this Contract and all applicable laws, statutes, rules, and regulations, including the applicable laws and regulations provided in **Attachment D**.

7.02 INSPECTION AND AUDIT

(a) All records related to this Contract, including records of Developer and its subcontractors, shall be subject to the Administrative and Audit Regulations. Accordingly, such records and work product shall be subject, at any time, to inspection, examination, audit, and copying at Developer's primary location or any location where such records and work product may be found, with or without notice from the GLO or other government entity with necessary legal authority. Developer shall cooperate fully with any federal or state entity in the conduct of inspection, examination, audit, and copying, including providing all information requested. Developer will ensure that this clause concerning federal and state entities' authority to inspect, examine, audit, and copy records and work product, and the requirement to fully cooperate with the federal and state entities, is included in any subcontract it awards.

(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.** Developer shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Developer and the requirement to cooperate is included in any subcontract it awards.

- (c) Developer will be deemed to have read and know of all applicable federal, state, and local laws, regulations, and rules pertaining to the Project, including those identified in **Attachment D**, governing audit requirements.
- (d) At any time, the GLO may perform, or instruct Developer to perform, a fiscal, special, or program-specific audit of any aspect of Developer's operation. Developer shall maintain financial and other records prescribed by the GLO or by applicable federal or state laws, rules, and regulations.

7.03 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 the overall State of Texas CDBG-DR grant, in accordance with federal regulations. **The GLO will notify all Program participants of the date upon which records may be destroyed.**

ARTICLE VIII - MISCELLANEOUS PROVISIONS

8.01 LEGAL OBLIGATIONS

For the duration of this Contract, Developer shall procure and maintain any license, authorization, insurance, waiver, permit, qualification, or certification required by federal, state, county, or city statute, ordinance, law, or regulation to be held by Developer to provide the goods or services required by this Contract. Developer shall pay all costs associated with all taxes, assessments, fees, premiums, permits, and licenses required by law. Developer shall pay any such government obligations not paid by its subcontractors during performance of this Contract. **Developer shall maintain copies of such licenses and permits as a part of its records in accordance with Section 7.01 of this Contract or as otherwise specifically directed by the GLO.**

8.02 INDEMNITY

Developer 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 any acts or omissions of Developer or its officers,

agents, employees, representatives, suppliers, contractors, subcontractors, assignees, designees, or suppliers of contractors or subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. Developer and the GLO shall furnish timely written notice to each other of any such claim. Developer shall be liable to pay all costs of defense, including attorneys' fees. Developer shall coordinate its defense with the Office of the Attorney General when Texas state agencies are named defendants in any lawsuit and Developer may not agree to any settlement without first obtaining the written consent of the Office of the Attorney General.

8.03 INSURANCE AND BOND REQUIREMENTS

- (a) Developer shall acquire and maintain insurance with financially sound and reputable insurers licensed by the Texas Department of Insurance in conformance with all requirements of **Attachment E**, attached hereto and incorporated herein in its entirety for all purposes, including the required "form of" certificate. Furthermore, Developer shall submit a certificate of liability insurance as required under this Contract, including (if requested) a schedule of coverage (or "underwriter's schedules") establishing to the satisfaction of the GLO the nature and extent of coverage granted by each such policy. Developer shall submit certificates of insurance and endorsements electronically, in the manner requested by the GLO. In the event that any policy is determined to be deficient to comply with the terms of the Contract, Developer shall secure such additional policies or coverage as the GLO may reasonably request or that are required by law or regulation. Developer will be responsible for submitting renewed certificates of insurance and endorsements, as evidence of insurance coverage throughout the Contract term. Developer may not be actively working on behalf of the GLO if the insurance coverage does not adhere to insurance requirements. Failure to submit required insurance documents may result in the cancellation of the Contract.
- (b) Developer shall require all contractors, subcontractors, vendors, service providers, or any other person or entity performing work described in **Attachment A** and the Progress Tracker and Construction Schedule to carry insurance for the duration of their provision of goods or services under the Project in the types and amounts of insurance customarily carried by a person or entity providing such goods or services. Developer shall require any person or entity required to obtain insurance under this section to complete and file the declaration pages from the insurance policies with Developer whenever a previously identified policy period expires during the term of Developer's contract with the person or entity, as proof of continuing coverage. Developer's contract with any such person or entity shall clearly state that acceptance of the insurance policy declaration pages by Developer shall not relieve or decrease the liability of the person or entity. **Persons or entities shall be required to update all expired policies before Developer's acceptance of an invoice for monthly payment from such parties.**
- (c) Prior to the commencement of construction, Developer shall obtain, or cause to be obtained, and submit to the GLO performance and payment bonds in accordance with **Attachment F**. The performance and payment bonds shall operate in

accordance with the requirements of Chapter 2253 of the Texas Government Code.

- (d) Developer shall require any person or entity performing work on any construction Activity under the Contract to complete form SF-424D, entitled “Assurances – Construction Programs,” and Developer shall maintain such documentation.

8.04 TAXES/WORKERS’ COMPENSATION/UNEMPLOYMENT INSURANCE

- (a) Developer shall be solely liable and responsible for payment of Developer’s and Developer’s employees’ taxes of whatever kind arising out of the execution or performance of the Contract. Developer must comply with all applicable state and federal laws regarding wages, taxes, insurance, and workers’ compensation. The GLO and the State of Texas shall not be liable to Developer 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) **DEVELOPER 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, ATTORNEYS’ 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 AND ANY WORK ASSOCIATED THEREWITH. DEVELOPER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY ACTION, CLAIM, DEMAND, OR SUIT DESCRIBED HEREIN. DEVELOPER SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS’ FEES. DEVELOPER MUST COORDINATE ITS DEFENSE WITH THE GLO AND THE OFFICE OF THE TEXAS ATTORNEY GENERAL IF THE GLO IS A NAMED DEFENDANT IN ANY LAWSUIT ARISING OUT OF THE EXECUTION OR PERFORMANCE OF THE CONTRACT. DEVELOPER MAY NOT AGREE TO THE SETTLEMENT OF ANY SUCH LAWSUIT OR OTHER CLAIM WITHOUT THE CONCURRENCE OF THE GLO AND, IF APPLICABLE, THE OFFICE OF THE TEXAS ATTORNEY GENERAL OR OTHER GLO LEGAL COUNSEL.**

8.05 ASSIGNMENT, TRANSFER, AND SUBCONTRACTS

Developer shall not assign, transfer, or delegate any rights, obligations, or duties under this Contract during the Contract Period without prior written consent from the GLO. Any attempted assignment, transfer, or delegation in violation of this provision is void and without effect. Notwithstanding this provision, it is mutually understood and agreed that Developer may subcontract with others for some or all of the services to be performed under this Contract. In any approved subcontracts, Developer must legally bind the subcontractor to perform and make such subcontractor subject to all the duties, requirements, and obligations of Developer as specified in this Contract. Nothing in this Contract shall be construed to relieve Developer of the responsibility for ensuring that the

goods delivered and/or the services rendered by Developer and/or any of its subcontractors comply with all the terms and provisions of this Contract.

For subcontracts to which Federal Labor Standards Act (“FLSA”) requirements apply, Developer shall submit to the GLO all documentation required to ensure compliance. Developer shall retain five percent (5%) of the payment due under each of Developer’s construction or rehabilitation subcontracts until the GLO determines that the FLSA requirements applicable to each such subcontract have been satisfied, as outlined in **Section 5.05** above.

8.06 DEBARMENT

Developer must confirm that its vendors and subcontractors are not debarred from receiving state or federal funds at each of the following web addresses:

- (a) the Texas Comptroller’s Vendor Performance Program at <https://comptroller.texas.gov/purchasing/>; and
- (b) the U.S. General Services Administration’s System for Award Management at <https://www.sam.gov/>.

8.07 EQUIPMENT AND COMPUTER SOFTWARE

Any purchase of Equipment or computer software made pursuant to this Contract shall be made in accordance with all applicable laws, regulations, and rules, including those defined in 2 C.F.R. § 200.313.

8.08 COMMUNICATION WITH THIRD PARTIES

The GLO and the authorities named in **Article VII** may initiate communications with any subcontractor of Developer, and may request access to any books, documents, personnel, papers, and records of a subcontractor which are pertinent to this Contract. Such communications may be required to conduct audits, examinations, Davis-Bacon Labor Standards interviews, and gather additional information as provided in **Article VII** herein.

8.09 RELATIONSHIP OF THE PARTIES

Developer is associated with the GLO only for the purposes and to the extent specified in this Contract. Developer is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract creates a partnership or joint venture, an employer-employee or principal-agent relationship, or any liability whatsoever with respect to the indebtedness, liabilities, or obligations of Developer or any other party. Developer shall be solely responsible for, and the GLO shall have no obligation with respect to, the following: the withholding of income taxes, FICA, or any other taxes or fees; industrial or workers’ compensation insurance coverage; participation in any group insurance plans available to employees of the State of Texas; participation or contributions by the State of Texas to the State Employees Retirement System; accumulation of vacation leave or sick leave; or unemployment compensation coverage provided by the State of Texas.

8.10 COMPLIANCE WITH OTHER LAWS

In the performance of this Contract, Developer must comply with all applicable federal, state, and local laws, statutes, ordinances, and regulations, including those listed in **Attachments B, C, and D**. Developer is deemed to know of and understand all applicable laws, statutes, ordinances, and regulations affecting its performance under this Contract.

8.11 NOTICES

Any notices required under this Contract shall be deemed delivered when deposited either in the United States mail (certified, postage paid, return receipt requested) or with a common carrier (overnight, signature required) to the appropriate address below.

GLO

Texas General Land Office
1700 N. Congress Avenue, 7th Floor
Austin, TX 78701
Attention: Contract Management Division

Developer

NC PC, LLC
2711 Lyndon B Johnson Fwy Ste 1012
Dallas, Texas 75234
Attention: Noorallah Jooma

Notice given in any other manner shall be deemed effective only if and when received by the Party to be notified. Either Party may change its address for notice by written notice to the other Party sent in accordance with this section.

8.12 GOVERNING LAW AND VENUE

This Contract and the rights and obligations of the Parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Contract shall be in a court of competent jurisdiction in Travis County, Texas. Developer irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of *forum non conveniens*, that it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction with respect to this Contract or any related document. **NOTHING IN THIS CONTRACT SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**

8.13 SEVERABILITY

If a court of competent jurisdiction determines any provision of this Contract is invalid, void, or unenforceable, the remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

8.14 DISPUTE RESOLUTION

Except as otherwise provided by statute, rule or regulation, Developer shall use the dispute resolution process established in Chapter 2260 of the Texas Government Code

and related rules to attempt to resolve any dispute under this Contract, including a claim for breach of contract by the GLO, that the Parties cannot resolve in the ordinary course of business. Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of such a claim constitutes grounds for Developer to suspend performance of this Contract. Notwithstanding this provision, the GLO reserves all legal and equitable rights and remedies available to it. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF THE GLO'S SOVEREIGN IMMUNITY.**

8.15 CONFIDENTIALITY

To the extent permitted by law, Developer and the GLO shall keep all information, in whatever form produced, prepared, observed, or received by Developer or the GLO, confidential to the extent that such information is: (a) confidential by law; (b) marked or designated "confidential" (or words to that effect) by Developer or the GLO; or (c) information that Developer or the GLO is otherwise required to keep confidential by this Contract. Developer must not make any communications or announcements relating to this Contract through press releases, social media, or other public relations efforts without the prior written consent of the GLO.

8.16 PUBLIC RECORDS

The GLO shall post this Contract to the GLO's website. Developer 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. Developer 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 Developer believes to be excepted from disclosure as "confidential" or a "trade secret," Developer waives any and all claims it may make against the GLO for releasing such information without prior notice to Developer. The Attorney General will ultimately determine whether any information may be withheld from release under the PIA. Developer 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, Developer shall forward the third party's contact information to the above-designated e-mail address.

8.17 AMENDMENTS TO THE CONTRACT

Amendments to decrease or increase the subaward, to add or delete an Activity as allowed by the Guidance Documents, to extend the term of the Contract, and/or to make other substantial changes to the Contract may be made only by written agreement of the Parties under the formal Amendment process outlined below, except that, upon completion of the Project, the GLO shall issue a closeout letter pursuant to **Section 2.03**. The formal Amendment process requires official request documentation from Developer

detailing all provisions to be amended and supporting documentation as required. The GLO Grant Manager will confirm and review the request and, as appropriate, submit the proposed amended language or amount to the GLO's Contract Management Division for the preparation of a formal Amendment and circulation for necessary GLO and Developer signatures. In the sole discretion of the GLO and in conformance with federal law, the GLO may approve other adjustments required by the GLO during Project performance through Technical Guidance Letter unilaterally issued by the GLO and acknowledged by Developer. Such GLO approvals must be in writing and may be delivered by U.S. mail or electronic mail.

Pursuant to **Section 2.03** hereof, a final **Project Completion Report** for all Activities performed under this Contract shall be submitted to the GLO for review and approval prior to expiration of the Contract.

8.18 ENTIRE CONTRACT AND MODIFICATIONS

This Contract, its Attachments, and any Amendment(s) or Technical Guidance Letter(s) issued in conjunction with this Contract, if any, constitute the entire agreement of the Parties and are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements made in connection with the subject matter hereof. Any additional or conflicting terms in issued Attachments or Technical Guidance Letters shall be harmonized with this Contract to the extent possible. Unless an Attachment or Technical Guidance Letter specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language shall be construed consistently with the Contract.

8.19 PROPER AUTHORITY

Each Party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to legally bind its respective entity. Developer acknowledges that this Contract is effective for the period of time specified in the Contract. Any work performed by Developer after the Contract terminates is performed at the sole risk of Developer.

8.20 COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be an original, and all such counterparts shall together constitute but one and the same Contract.

8.21 SURVIVAL

The provisions of **Articles V, VI, and VII** and **Sections 1.01, 1.03, 3.02, 3.04, 3.05, 8.02, 8.03, 8.08, 8.09, 8.10, 8.11, 8.12, 8.13, 8.14, 8.15, 8.16, and 8.17** of this Contract and any other continuing obligations of Developer shall survive the termination or expiration of this Contract.

8.22 CONTRACT CLOSEOUT

Upon completion of all Activities required for the Contract, and, pursuant to **Section 2.03** hereof, Developer shall prepare a final **Project Completion Report** confirming final

performance measures, budgets, and expenses. The GLO will close the Contract in accordance with 2 C.F.R. §§ 200.344 through 200.346 and GLO CDBG-DR guidelines consistent therewith.

DEVELOPER SHALL SUBMIT A FINAL BUDGET AND ACTUAL EXPENDITURES TO THE GLO AS PART OF THE PROJECT COMPLETION REPORT PRIOR TO CONTRACT EXPIRATION OR TERMINATION OR AT THE CONCLUSION OF ALL CONTRACT ACTIVITIES, WHICHEVER OCCURS FIRST. THE PROJECT COMPLETION REPORT SHALL BE IN A FORMAT PRESCRIBED BY THE GLO AND SHALL CONFIRM ELIGIBILITY AND COMPLETION OF ALL ACTIVITIES PERFORMED UNDER THIS CONTRACT. FAILURE TO SUBMIT TO THE GLO THE FINAL BUDGET AND ACTUAL EXPENDITURES AS PART OF THE PROJECT COMPLETION REPORT PRIOR TO CONTRACT EXPIRATION OR TERMINATION WILL RESULT IN FORFEITURE AND DE-OBLIGATION OF ALL REMAINING UNREQUESTED FUNDS.

The GLO will notify Developer via official closeout letter upon review and approval of the final Project Completion Report.

8.23 INDIRECT COST RATES

Indirect costs, as defined under the terms of 2 C.F.R. Part 200, Subpart E, cannot be charged by Developer. Developer shall be reimbursed for internal costs through the Developer Fee as outlined in **Section 2.04**.

8.24 CONFLICT OF INTEREST

- (a) Developer shall comply with all conflict-of-interest laws and regulations applicable to the Program.
- (b) Developer shall not engage any inspector that presents a potential or actual conflict of interest between the interests of Developer and the services to be performed by the inspector in relation to the Project.
- (c) Developer shall abide by the provisions of this section and include the provisions in all subcontracts.

8.25 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; 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 "Force Majeure"), then, while compliance is 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 must promptly notify the other Party of the Force Majeure event in writing, and, if possible, such notice must set forth the extent and duration of the Force Majeure. The Party claiming Force Majeure must exercise due diligence to prevent, eliminate, or overcome such Force Majeure event when it is possible to do so and must resume performance at the earliest possible date. However, if nonperformance continues for more

than thirty (30) days, the GLO may terminate this Contract immediately upon written notification to Developer.

8.26 ENVIRONMENTAL CLEARANCE REQUIREMENTS

- (a) The GLO is the responsible entity, as “responsible entity” is defined under 24 C.F.R. Part 58, and is accountable for conducting environmental reviews and for obtaining any environmental clearance necessary for successful completion of an Activity or the Project. The GLO shall prepare an environmental review or assessment of each Activity or the Project in accordance with applicable laws, regulations, rules, and guidance. Developer shall maintain a written Environmental Review Record for each Activity or the Project, including all supporting source documentation and documentation to support any project mitigation. Developer shall provide a copy of the ERR and all related source documentation to the GLO.
- (b) Developer shall address inquiries and complaints relating to environmental Activities. Developer shall document each communication issued or received hereunder in the related ERR.
- (c) The GLO may, in its sole discretion, reimburse Developer for certain exempt environmental Activities, as defined in federal regulations. Invoices for exempt environmental Activities must be supported by the proper HUD-prescribed form.
- (d) The Parties acknowledge and understand that the GLO may enter into interagency agreements with the Texas Historical Commission and other entities in order to facilitate any necessary environmental or historic review. The GLO may incorporate one or more interagency agreements into this Contract via a Technical Guidance Letter.

8.27 SIGNAGE REQUIREMENTS

On any public building or facility funded under this Contract, Developer shall place permanent signage. Signs shall be placed in a prominent, visible public location. Developer shall format each sign to best fit the architectural design of the building or facility but the sign should be legible from a distance of at least three (3) feet.

For other construction projects (e.g., water transmission lines, sewer collection lines, drainage, roadways, housing rehabilitation) funded under this Contract, Developer shall place temporary signage erected in a prominent location at the construction project site or along a major thoroughfare within the locality.

All signage required under this section shall contain the following:

“This project is funded by the Texas General Land Office of the State of Texas to provide the construction, reconstruction, or rehabilitation of affordable multi-family rental housing units for communities impacted by the 2019 Disasters, including the 2019 South Texas Floods and Tropical Storm Imelda. The funds have been allocated by the United States Department of Housing and Urban Development through the Community Development Block Grant – Disaster Recovery Program.”

8.28 PREFERENCE AND PROCUREMENT OF MATERIALS

- (a) To the extent applicable, Developer shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired in the following manner:
- (i) competitively within a timeframe allowing compliance with the Contract's performance schedule;
 - (ii) in a way that meets the Contract's performance requirements; or
 - (iii) at a reasonable price.

To ensure maximum use of recovered/recycled materials pursuant to 2 C.F.R. § 200.323, information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guideline Program website, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

- (b) As appropriate and to the extent consistent with law, Developer should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
- (c) For purposes of section (b) above:
- (i) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - (ii) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

8.29 EQUAL OPPORTUNITY CLAUSE

Developer hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 C.F.R. Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

"During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

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

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

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

Developer further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if Developer so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

Developer agrees that it will assist and cooperate actively with the GLO and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the GLO and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the GLO in the discharge of the GLO's primary responsibility for securing compliance.

Developer further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts, as defined in 41 C.F.R. § 60-1.3, and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, Developer agrees that if it fails or refuses to comply with these undertakings, the GLO may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this Contract; refrain from extending any further assistance to Developer under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from Developer; and refer the case to the Department of Justice for appropriate legal proceedings.

8.30 INFORMATION AND DATA SECURITY STANDARDS

Developer shall comply with all terms specified in the **GLO Information Security Appendix (CDBG)**, incorporated herein for all purposes as **Attachment G**.

8.31 LAND USE RESTRICTION AGREEMENT

Developer agrees to comply with certain occupancy, rent, and other restrictions under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) and the applicable CDBG-DR regulations. Developer shall ensure that a percentage of units within the Project are reserved for leasing to LMI tenants, as outlined in **Attachment A**. The affordability of each LMI housing unit must be protected by the execution of a Land Use Restriction Agreement (“LURA”) recorded in the real property records of the county clerk for each county in which a Project site is physically located. A sample version of the standard LURA form typically used by the GLO is included as **Attachment H**. The GLO reserves the right to negotiate final LURA terms with Developer. The LURA must be approved by the GLO prior to filing as described above.

8.32 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 despite 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.

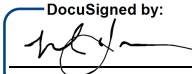
Under penalties of 18 U.S.C. § 287, 18 U.S.C. § 1001, and 31 U.S.C. § 3729, the undersigned Developer representative hereby declares that he/she has examined this Contract and Attachments, and, to the best of his/her knowledge and belief, any statements, entries, or claims made by Developer are true, accurate, and complete.

SIGNATURE PAGE FOLLOWS

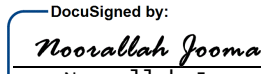
**SIGNATURE PAGE FOR GLO CONTRACT NO. 23-064-012-D810
MULTI-FAMILY DEVELOPER CONTRACT AGREEMENT
CDBG-DR 2019 DISASTERS**

GENERAL LAND OFFICE

NC PC, LLC

DocuSigned by:







Mark A. Havens, Chief Clerk/
Deputy Land Commissioner

DocuSigned by:


By Noorallah Jooma
Title: Manager

Date of execution: 11/10/2022

Date of execution: 11/8/2022

- OGC  _____
- PM  _____
- SDD  _____
- DGC  _____
- GC  _____

ATTACHED TO THIS CONTRACT:

- ATTACHMENT A** Performance Statement
- ATTACHMENT B** Federal Assurances and Certifications
- ATTACHMENT C** General Affirmations
- ATTACHMENT D** Nonexclusive List of Applicable Laws, Rules, and Regulations
- ATTACHMENT E** Required Insurance and Form of Certificate
- ATTACHMENT F** Required Bonds
- ATTACHMENT G** GLO Information Security Appendix (CDBG)
- ATTACHMENT H** Sample Land Use Restriction Agreement

ATTACHMENTS FOLLOW

MULTI-FAMILY RESIDENTIAL CONSTRUCTION SERVICES PERFORMANCE STATEMENT

In 2019, the State of Texas experienced severe storms and flooding (DR-4454) and Tropical Storm Imelda (DR-4466). Following these disasters, the U.S. Congress appropriated funds under Public Law 116-20 to HUD for allocation to affected states under the Community Development Block Grant for Disaster Recovery Program. Such funds are to be used for Activities related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the impacted areas.

A. PROJECT DESCRIPTION

In accordance with the terms of the Contract and all attachments, applicable laws and regulations, Guidance Documents, and other published guidance, Developer shall construct thirty-two (32) new multifamily housing units.

Developer shall reserve nineteen (19) units for leasing to eligible LMI tenants and seven (7) for leasing to eligible ELI tenants. Additionally, Developer agrees to construct eight (8) units in compliance with the 2010 Americans with Disabilities Act Standards and any other accessibility standards outlined in applicable Guidance Documents.

Activity Type	National Objective	Number of Activities Served
Affordable Rental Program	LMI	1

Developer agrees to comply with certain occupancy, rent, and other restrictions under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) and the applicable CDBG-DR regulations. Developer shall ensure that a percentage of units are reserved for leasing to LMI tenants in accordance with applicable federal law. LMI units shall be scattered amongst and between market-rate units throughout the Project. The affordability of each housing unit must be protected with a twenty-year (20-year) Land Use Restriction Agreement approved by the GLO. The LURA shall be recorded, at Developer's expense, in the real property records of the county clerk for each county in which the Project is physically located.

B. MILESTONES

Developer shall complete and all necessary start-up documentation and submit such documentation to the GLO for review and approval prior to the commencement of construction. Developer's start-up documentation shall include a Progress Tracker and Construction Schedule outlining an estimated construction schedule with correlating budgets. The Progress Tracker and Construction Schedule shall describe the Tasks required for completion under each Milestone. Developer shall ensure the amount of funds expended for the Tasks associated with each Milestone, as outlined in the Progress Tracker and Construction Schedule, does not exceed the budgeted amount specified in the table below.

Developer shall satisfactorily complete the Project within the Contract Period in accordance with the table below. Developer shall invoice no more than once per month. Developer may draw up

to, but not exceed, the identified budget percentages associated with each Milestone up to the completion of said Milestone.

#	Milestone	Not-To-Exceed Percentage
1	Developer shall submit the Start-Up Documentation for GLO approval.	Up to 10% of the Budget
2	Developer shall satisfactorily complete the Tasks outlined in the Progress Tracker and Construction Schedule for Milestone 2.	Up to 25% of the Budget
3	Developer shall satisfactorily complete the Tasks outlined in the Progress Tracker and Construction Schedule for Milestone 3.	Up to 50% of the Budget
4	Developer shall satisfactorily complete the Tasks outlined in the Progress Tracker and Construction Schedule for Milestone 4.	Up to 75% of the Budget
5	Developer shall satisfactorily complete the Tasks outlined in the Progress Tracker and Construction Schedule for Milestone 5.	Up to 90% of the Budget
6	Developer shall satisfactorily complete, in addition to the Tasks outlined in the Progress Tracker and Construction Schedule for Milestone 6, the following: <ol style="list-style-type: none"> 1. Filing for and receiving a valid certificate of occupancy; 2. Filing the LURA with the country clerk's office; 3. A final labor and wage report; 4. Any punch list items; and 5. Any required closeout documentation. 	Up to 100% of the Budget

C. BUDGET

HUD Activity Type	Grant Award	Other Funds	Total
Multi-Family Residential Construction Services	\$5,000,000.00	\$3,092,900.00	\$8,092,900.00

Developer must submit, for review and approval by the GLO, the following documents to request reimbursement, as outlined in **Section 2.01** of the Contract:

- (1) A draw request form;
- (2) A third-party inspection report that correlates to the work performed and funds sought to be drawn;

- (3) A correlating G702 and G703 form;
- (4) A date-down endorsement; and
- (5) Any other documentation required by the GLO to substantiate costs incurred or verify work performed.

Note: The GLO will not reimburse expenses related to the obtainment of required bonds and/or insurance. All reimbursement requests shall be reviewed at the discretion of the GLO.

INSPECTIONS

Developer shall be responsible for ensuring all inspections required under the law are conducted and satisfactorily passed. Developer shall maintain physical proof that municipal codes and/or third-party inspections have been passed and accepted by any inspection authority with jurisdiction over the Project site. Developer shall give the GLO or its designated representatives and agents access to all Project documentation, regardless of medium or format, at all times and shall submit copies of any Project documentation at the request of the GLO.

Additionally, Developer shall ensure the Progress Tracker and Construction Schedule accounts for Program-required GLO-conducted inspections at the following stages of the Project:

- (1) 50% construction completion,
- (2) 100% construction completion, and
- (3) Final Project completion.

The Project must satisfactorily pass the GLO-conducted inspections at the intervals listed above.

ASSURANCES - CONSTRUCTION PROGRAMSOMB 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.

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| <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p> | <p>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).</p> <p>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.</p> <p>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.).</p> <p>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."</p> <p>19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.</p> <p>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.</p> |
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SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL DocuSigned by:  <small>BF6426A5A29B47Z</small>	TITLE Manager
APPLICANT ORGANIZATION NC PC, LLC	DATE SUBMITTED 11/8/2022

**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

AWARD NUMBER AND/OR PROJECT NAME

NC PC, LLC

23-064-012-D810

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Noorallah Jooma

Manager

SIGNATURE

DATE

DocuSigned by:

Noorallah Jooma

11/8/2022

124 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: _____ 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
4. Name and Address of Reporting Entity: _____ Prime _____ 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: _____		
<p>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.</p> <p>*Signature: _____</p> <p>*Name: Prefix _____ *First Name _____ Middle Name _____ *Last Name _____ Suffix _____</p> <p>Title: _____ Telephone No.: _____ Date: _____</p>		
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 Address of Prime	Conditionally Required	If Reporting Entity in No. 4 is Subawardee, provide the information for the Name and 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, Developer affirms and agrees to the following, without exception:

1. Developer represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Developer nor the firm, corporation, partnership, or institution represented by Developer, 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 Developer.*
2. Developer 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, Developer 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 [Developer] 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. Developer 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, Developer represents and warrants that it complies with the requirements of the state risk and authorization management program and Developer 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), Developer 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 Developer to access, transmit, use, or store data for the GLO, then in accordance with Section 2054.138 of the Texas Government Code, Developer certifies that it will comply with the security controls required under this Contract and will maintain

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records and make them available to the GLO as evidence of Developer's compliance with the required controls.

9. Developer 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. Developer agrees that any payments due under the Contract shall be applied towards any debt or delinquency that is owed by Developer to the State of Texas.
11. Upon request of the GLO, Developer 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, Developer 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 Developer's submission of its offer to provide consulting services to the GLO or, in the alternative Developer, 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, Developer 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 DEVELOPER.**
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, Developer 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 DEVELOPER.**
 - a. Notwithstanding Texas Government Code, Chapter 2260.002(3) and Chapter 114.012 and any other statute or applicable law, if Developer's claim for breach of contract cannot be resolved by the Parties in the ordinary course of business, Developer may make a claim against the GLO for breach of contract and the GLO may assert a counterclaim against Developer as is contemplated by Texas Government Code, Chapter 2260, Subchapter B. In such event, Developer 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

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- alleged breach; (2) the amount Developer 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 Developer 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 Developer'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 Developer. 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 Developer. 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 Developer 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. Developer 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 Developer: (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, Developer 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. Developer 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

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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. Developer 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, Developer 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. Developer 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, Developer certifies that neither Developer nor any person or entity represented by Developer 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, Developer 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 Developer from providing free technical assistance.*
21. Developer 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, Developer 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, Developer further represents and warrants that if a former employee of the GLO was employed by Developer within one year of the employee's leaving the GLO, then such employee will not perform services on projects with Developer 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.

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24. IF THE CONTRACT IS NOT FOR ARCHITECTURE OR ENGINEERING SERVICES GOVERNED BY TEXAS GOVERNMENT CODE CHAPTER 2254, DEVELOPER, 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 DEVELOPER 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 DEVELOPER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND DEVELOPER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. DEVELOPER 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, DEVELOPER, 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 DEVELOPER'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE DEVELOPER OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO DEVELOPER, OR ANY OTHER ENTITY OVER WHICH DEVELOPER EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY DEVELOPER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND DEVELOPER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. DEVELOPER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.*
26. TO THE EXTENT ALLOWED BY LAW, DEVELOPER 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

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PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF DEVELOPER PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) THE GLO'S AND/OR DEVELOPER'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE GLO BY DEVELOPER OR OTHERWISE TO WHICH THE GLO HAS ACCESS AS A RESULT OF DEVELOPER'S PERFORMANCE UNDER THE CONTRACT. DEVELOPER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. DEVELOPER SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY DEVELOPER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND DEVELOPER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, DEVELOPER 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 DEVELOPER OR IF THE GLO IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, THE GLO WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND DEVELOPER WILL PAY ALL REASONABLE COSTS OF THE GLO'S COUNSEL.*

27. Developer 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, Developer 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 Developer and legally empowered to contractually bind Developer 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, Developer 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. Developer 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. Developer 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, Developer 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, Developer 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 Developer 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. Developer 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, Developer 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 Developer believes to be excepted from disclosure as "confidential" or a "trade secret," Developer waives any and all claims it may make against the GLO for releasing such information without prior notice to Developer. The Attorney General will ultimately determine whether any information may be withheld from release under the PIA. Developer 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, Developer 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. Developer 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 Developer, in its performance of the Contract, has access to a state computer system or database, Developer must complete a cybersecurity training program certified under Texas Government Code Section 2054.519, as selected by the GLO. Developer must complete the cybersecurity training program during the initial term of the Contract and during any renewal period. Developer must verify in writing to the GLO its completion of the cybersecurity training program.
38. Under Section 2155.0061, Texas Government Code, Developer 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. Developer 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 Developer's business. Developer acknowledges that such a vaccine or recovery requirement would make Developer ineligible for a state-funded contract.
40. Pursuant to Government Code Section 2274.0102, Developer certifies that neither it nor its parent company, nor any affiliate of Developer 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 2274.0103, or (2) headquartered in any of those countries.*
41. If Developer is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Developer verifies that Developer does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Developer does not make that verification, Developer must notify the GLO and state why the verification is not required.*
42. If Developer is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Developer 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 Developer does not make that verification, Developer must notify the GLO and state why the verification is not required.*
43. If Developer is a "professional sports team" as defined by Texas Occupations Code Section 2004.002, Developer will play the United States national anthem at the beginning of each team sporting event held at Developer's home venue or other venue controlled by Developer for the event. Failure to comply with this obligation constitutes a default of this Contract, and immediately subjects Developer to the penalties for default, such as repayment of money received or ineligibility for additional money. In addition, Developer 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 Developer and the Contract, in accordance with Section 552.372 of the Texas Government Code, Developer 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 Developer'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 Developer'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 Developer agrees that the Contract may be terminated if Developer 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, Developer, 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 Developer compiled in connection with its performance under the Contract.*
46. If subject to 2 CFR 200.216, Developer 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 Developer 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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NONEXCLUSIVE LIST OF APPLICABLE LAWS, RULES, AND REGULATIONS

If applicable to the Project, Developer must be in compliance with the following laws, rules, and regulations, as may be amended or superseded over time, and any other state, federal, or local laws, rules, and regulations as may become applicable throughout the term of the Contract, and Developer acknowledges that this list may not include all such applicable laws, rules, and regulations.

Developer is deemed to have read and understands the requirements of each of the following, if applicable to the Project under this Contract:

GENERALLY

The Acts and Regulations specified in this Contract;

Additional Supplemental Appropriations for Disaster Relief Act, 2019 (Public Law 116-20);

The Housing and Community Development Act of 1974 (12 U.S.C. § 5301 *et seq.*);

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);

Cash Management Improvement Act regulations (31 C.F.R. Part 205);

Community Development Block Grants (24 C.F.R. Part 570);

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200);

Disaster Recovery Implementation Manual; and

State of Texas CDBG-DR Action Plan: 2019 Disasters, approved by HUD on October 15, 2020, as amended.

CIVIL RIGHTS

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";

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.*);

Title VIII of the Civil Rights Act of 1968, "The Fair Housing Act of 1968" (42 U.S.C. § 3601, *et seq.*), as amended;

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 Developer 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;

The Age Discrimination Act of 1975 (42 U.S.C. § 6101, *et seq.*); and

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, Developer 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.

LABOR STANDARDS

The Davis-Bacon Act, as amended (originally, 40 U.S.C. §§ 276a-276a-5 and re-codified at 40 U.S.C. §§ 3141-3148); 29 C.F.R. Part 5;

The Copeland "Anti-Kickback" Act (originally, 18 U.S.C. § 874 and re-codified at 40 U.S.C. § 3145); 29 C.F.R. Part 3;

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (originally, 40 U.S.C. §§ 327A and 330 and re-codified at 40 U.S.C. §§ 3701-3708);

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act) (29 C.F.R. Part 5); and

Federal Executive Order 11246, as amended.

EMPLOYMENT OPPORTUNITIES

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. § 1701u); 24 C.F.R. Part 75;

The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. § 4212);

Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1688); and

Federal Executive Order 11246, as amended.

GRANT AND AUDIT STANDARDS

Single Audit Act Amendments of 1996, 31 U.S.C. § 7501;

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200);

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

Title 1 Texas Administrative Code § 5.167(c).

LEAD-BASED PAINT

Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4831(b)).

HISTORIC PROPERTIES

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;

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); Federal historic preservation regulations as follows: 36 C.F.R. Part 800 with respect to HUD programs; and 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).

ENVIRONMENTAL LAW AND AUTHORITIES

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

FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION

Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 C.F.R., 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.); and 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.

COASTAL ZONE MANAGEMENT

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

SOLE SOURCE AQUIFERS

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)); and Sole Source Aquifers (Environmental Protection Agency-40 C.F.R. part 149.).

ENDANGERED SPECIES

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

WILD AND SCENIC RIVERS

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

AIR QUALITY

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)). Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency-40 C.F.R. Parts 6, 51, and 93).

FARMLAND PROTECTION

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); and

Farmland Protection Policy (Department of Agriculture-7 C.F.R. part 658).

HUD ENVIRONMENTAL STANDARDS

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

HUD Notice 79-33, Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials, September 10, 1979.

ENVIRONMENTAL JUSTICE

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

SUSPENSION AND DEBARMENT

Use of debarred, suspended, or ineligible contractors or subrecipients (24 C.F.R. § 570.609);

General HUD Program Requirements; Waivers (24 C.F.R. Part 5); and

Nonprocurement Suspension and Debarment (2 C.F.R. Part 2424).

OTHER REQUIREMENTS

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

ACQUISITION / RELOCATION

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. § 570.606.

FAITH-BASED ACTIVITIES

Executive Order 13279 of December 12, 2002 - Equal Protection of the Laws for Faith-Based and Community Organizations, (67 FR 77141), as amended by Executive Order 13559, Fundamental Principles and Policymaking Criteria for Partnerships with Faith-Based and Other Neighborhood Organizations and HUD regulations at 24 C.F.R. 570.200(j).

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REQUIRED INSURANCE

GENERALLY. Developer shall, at its sole expense, acquire, maintain, and keep in force 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 Developer and shall continue in full force until the earlier as appropriate of (i) the expiration of this Contract; or (ii) such time as the GLO notifies Developer 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 Developer. Developer's insurance policies shall apply on a primary basis. If, at any time during the term of this Contract, an insurer or surety fails to provide insurance to Developer or otherwise fails to comply with the requirements of this Contract, Developer shall immediately notify the GLO and replace such insurance or bond with an insurer meeting such requirements. General aggregate limits of Developer's Commercial General Liability policy shall apply per project. Developer'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 Developer shall not relieve Developer of Developer'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. Developer 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 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 Contract 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 specified in the Contract. 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 this Contract in lieu of the insurance policies and/or bonds required. It will be Developer's responsibility to recommend to the GLO alternative methods of insuring this Contract. Any alternatives proposed by Developer should be accompanied by a detailed explanation regarding Developer'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 COVERAGE REQUIRED

- (a) For the duration of the Contract, Developer shall acquire, maintain, and provide the minimum insurance coverage in the minimum amounts described below.

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.	

- (b) Prior to commencing construction and until construction is completed, Developer shall acquire, maintain, and provide the minimum insurance coverage in the minimum amounts described below.

TYPES OF COVERAGE	LIMITS OF LIABILITY
a. 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
b. Builder's Risk Insurance	
Must have an all-risk policy, in the amount equal at all times to one hundred percent (100%) of the Contract amount. 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 Developer and shall name his Subcontractors as additional insureds. The GLO shall be named as a loss payee on the policy. If Developer cannot obtain insurance coverage in the total amount of investment in the property after making best efforts, the GLO at its sole discretion may give written approval of a lesser amount of coverage.	

Insurance Certificates must:

- (a) be submitted to insurance@glo.texas.gov;
- (b) **prominently display “GLO Contract No. 23-064-012-D810”**; 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.

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

REQUIRED FORM OF CERTIFICATE FOLLOWS THIS PAGE

Required Bonds

1. Performance and Payment Bonds.

Prior to the commencement of construction under the Project, Developer is required to tender to the GLO performance and payment bonds.

1.1. The form of any Performance or Payment Bond submitted by Developer shall be similar to the format provided herein by the GLO and must be approved by the Attorney General of Texas.

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

1.3 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. 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 of Texas. 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 of Texas, Developer shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to the GLO.

1.4 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.

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.

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.

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. Claims on Bonds.

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 Developer or the GLO or their agents or employees.

6. Property Liens Strictly Prohibited.

Developer is solely responsible for informing bond claimants of the strict prohibition against placing liens on the real property that is the subject of the Project.

7. Removal of Property Lien Filed.

Developer 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 real property that is the subject of the Project, irrespective of the fault or cause of such attachment.

8. No Release.

No extension of the Contract Period shall release Developer 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.

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PAYMENT BOND

STATE 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 _____

GLO Information Security Appendix (CDBG)

1. Definitions

“[Breach of Security](#)” means any unauthorized access of computerized data that compromises the security, confidentiality, or integrity of GLO Data that is in the possession and/or control of Developer (or any entity with which Developer shares GLO Data as authorized herein) including data that is encrypted if the person accessing the data has the key required to decrypt the data, or a loss of control, compromise, unauthorized disclosure or access, failure to physically secure GLO Data or when unauthorized users access PII or SPI for an unauthorized purposes. The term encompasses both suspected and confirmed incidents involving GLO Data which raise a reasonable risk of harm to the GLO or an individual. A Breach of Security occurs regardless of whether caused by a negligent or intentional act or omission on part of Developer and/or aforementioned entities.

“[GLO Data](#)” means any data or information, which includes PII and/or SPI as defined below, collected, maintained, and created by the GLO, for the purpose of providing disaster assistance to an individual, that Developer obtains, accesses (via records, systems, or otherwise), receives (from the GLO or on behalf of the GLO), or uses in the performance of the Contract or any documents related thereto. GLO Data does not include other information that is lawfully made available to Developer through other sources.

“[Personal Identifying Information](#)” or “[PII](#)” means information that alone, or in conjunction with other information, identifies an individual as defined at Tex. Bus. & Com Code Section 521.002(a)(1).

“[Sensitive Personal Information](#)” or “[SPI](#)” means the personal information identifying an individual as defined at Tex. Bus. & Com. Code Section 521.002(a)(2).

All defined terms found in the Contract shall have the same force and effect, regardless of capitalization.

2. Security and Privacy Compliance

- 2.1. Developer shall keep all GLO Data received under the Contract and any documents related thereto strictly confidential.
- 2.2. Developer shall comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations.
- 2.3. Developer shall implement administrative, physical, and technical safeguards to protect GLO Data that are no less rigorous than accepted industry practices including, without limitation, the guidelines in the National Institute of Standards and Technology (“NIST”) Cybersecurity Framework Version 1.1. All such safeguards shall comply with applicable data protection and privacy laws.
- 2.4. Developer will legally bind any contractor(s)/subcontractor(s) to the same requirements stated herein and obligations stipulated in the Contract and documents related thereto. Developer shall ensure that the requirements stated herein are imposed on any contractor/subcontractor of Developer’s subcontractor(s).

- 2.5. With the exception of contractors and subcontractors as they are addressed in Section 2.4, Developer will not share GLO Data with any third parties, except as necessary for Developer's performance under the Contract and upon the express written consent of the GLO's Information Security Officer or his/her authorized designee.
- 2.6. Developer will ensure that initial privacy and security training, and annual training, thereafter, is completed by its employees or contractor/subcontractors that have access to GLO Data or who create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle PII and/or SPI on behalf of the GLO. Developer shall maintain and, upon request, provide documentation of training completion.
- 2.7. Any GLO Data maintained or stored by Developer or any contractor/subcontractor must be stored on servers or other hardware located within the physical borders of the United States and shall not be accessed outside of the United States.
- 2.8. Developer shall require that all individuals allowed to access GLO Data pursuant to this Contract sign a confidentiality and non-disclosure agreement ("NDA") before being given access to GLO Data. At a minimum, the NDA shall inform all individuals of the confidential nature of the GLO Data, the security and non-disclosure requirements of this Contract, and the potential criminal penalties and civil remedies specified in federal and state laws that may result from the unauthorized disclosure of GLO Data. The NDA shall require all individuals to acknowledge that the GLO or the United States government, including the U.S. Department of Housing and Urban Development, will seek any remedy available, including all administrative, disciplinary, civil, or criminal action(s) or penalties, as appropriate, for any unauthorized disclosure of GLO Data. Developer shall provide the GLO copies of any and all NDAs upon request or demand by the GLO.
- 2.9. Developer shall only use GLO Data for the purposes of administering the Project(s).

3. Data Ownership

- 3.1. The GLO shall retain full ownership of all GLO Data, which includes PII and/or SPI, disclosed to Developer or to which Developer otherwise gains access by operation of the Contract or any agreement related thereto.
- 3.2. If, at any time during the term of the Contract or upon termination of the Contract, whichever occurs first, any part of the GLO Data, in any form, provided to Developer ceases to be necessary for Developer's performance under the Contract, Developer shall within fourteen (14) days thereafter securely return such GLO Data to the GLO, or, at the GLO's written request, destroy, uninstall, and/or remove all copies of data in Developer's possession or control and certify to the GLO that such tasks have been completed. Developer shall provide certification of such destruction of GLO Data. If such return is infeasible, as mutually determined by the GLO and Developer, the obligations set forth in this Attachment, with respect to GLO Data, shall survive termination of the Contract and Developer shall prohibit any further use and disclosure of GLO Data.

4. Data Mining

- 4.1. Developer shall not use GLO Data for unrelated commercial purposes, advertising or advertising-related services, or for any other purpose not explicitly authorized by the GLO in this Contract.
- 4.2. Developer shall take all reasonable physical, technical, administrative, and procedural measures to ensure that no unauthorized use or access of GLO Data occurs.

5. Breach of Security

- 5.1. Developer shall provide the GLO with the name and contact information for an employee of Developer which shall serve as the GLO's primary security contact.
- 5.2. Upon Developer's discovery of a Breach of Security or suspected Breach of Security, Developer shall notify the GLO as soon as possible, but no later than 24 hours after discovery of the Breach of Security or suspected Breach of Security. Within 72 hours, Developer shall provide to the GLO, at minimum, a written preliminary report regarding the Breach or suspected Breach to the GLO with root cause analysis including a log detailing the data affected.
- 5.3. Developer shall submit the initial notification and preliminary report to the GLO Information Security Officer at informationsecurity@glo.texas.gov.
- 5.4. Developer shall take all reasonable steps to immediately remedy a Breach of Security and prevent any further Breach of Security.
- 5.5. Developer shall not inform any third party of any Breach of Security or suspected Breach of Security without first obtaining GLO's prior written consent unless such action is required by law or is limited to third party personnel that have a need to know for the sole purpose of containing or remediating the Breach of Security or suspected Breach of Security. However, while a third party may be informed of the Breach or suspected Breach for the sole purpose of containing or remediating it, no GLO Data shall be shared with such third party unless express written permission is obtained from the GLO in accordance with Section 2.5. Developer will legally bind such third party to the same requirements stated herein and obligations stipulated in the Contract and documents related thereto as soon as practicable upon securing such third party to contain or remediate the Breach of Security or suspected Breach of Security.
- 5.6. Notwithstanding the remedies provided in the Contract, if a Breach of Security includes SPI, Developer shall, at the discretion of the GLO, notify affected individuals of such Breach and provide affected individuals complimentary access to one (1) year of credit monitoring services.

6. Right to Audit

- 6.1 Upon the GLO's request and to confirm Developer's compliance with this Attachment, Developer grants the GLO, or a GLO-contracted vendor, permission to perform an assessment, audit, examination, investigation, or review of all controls in Developer's, or Developer's contractor/subcontractor's, physical and/or technical environment in relation to GLO Data. Developer shall fully cooperate with such assessment by

providing access to knowledgeable personnel, physical premises, documentation, infrastructure and application software that stores, processes, or transports GLO Data. In lieu of a GLO-conducted assessment, audit, examination, investigation, or review, Developer may supply, upon GLO approval, the following reports: SSAE18, ISO/ICE 27001 Certification, FedRAMP Certification, and PCI Compliance Report. Developer shall ensure that this clause concerning the GLO's authority to assess, audit, examine, investigate, or review is included in any contract/subcontract that Developer awards.

- 6.2 At the GLO's request, Developer shall promptly and accurately complete a written information security questionnaire provided by the GLO regarding Developer's business practices and information technology environment in relation to GLO Data and the GLO shall consider such information to be confidential to the extent allowed by law.

II. DEFINITIONS

2.01 GENERAL

Unless the context clearly requires otherwise, capitalized terms used in this Agreement shall have the meanings specified in Article II. Certain additional terms may be defined elsewhere in this Agreement.

“[Agreement](#)” means this Land Use Restriction Agreement, as it may from time to time be amended, for the Project. This Land Use Restriction Agreement is executed by and between the GLO and Developer and sets forth certain occupancy and rental restrictions, as contained herein, for the Project.

“[Annual Income](#)” means “annual income” as defined in 24 C.F.R. § 92.203, as amended.

“[Area Median Income](#)” means the median income (as such median income is adjusted for family size and established by HUD at least annually in accordance with federal law or as otherwise established by the GLO) for the area where the Property is located.

“[CDBG-DR Regulations](#)” means the regulations set forth in 24 C.F.R. Part 570, as amended from time to time, that are promulgated by HUD or any respective successor pursuant to federal law and that govern all Community Development Block Grant programs.

“[C.F.R.](#)” means the Code of Federal Regulations, the codification of the general and permanent rules and regulations (sometimes called administrative law) published in the Federal Register by the executive departments and agencies of the federal government of the United States.

“[Displaced Persons](#)” means families, individuals, businesses, nonprofit organizations, and farms that permanently move from the Project or permanently move property from the Project as a direct result of acquisition, reconstruction, rehabilitation, or demolition of the Project or as otherwise provided in Sections 570.488 and 570.606 of the CDBG Regulations, except as such sections are waived by HUD.

“[Effective Date](#)” means the latest date on which this Agreement is properly recorded in the real property records of the county clerks for all counties in which the Project is physically located.

“[Event of Default](#)” means the occurrence of any of the events set forth in **Section 7.01**, herein.

“[Exhibit](#)” means documents, terms, conditions, or additional information physically added to the Agreement following the execution page or included by reference.

“[Extremely Low-Income Household](#)” or “[ELI Household](#)” means families and individuals whose Annual Incomes do not exceed thirty percent (30%) of the Area Median Income for the area in which the Property is located.

“[Governmental Authority](#)” means the United States of America; the State of Texas; the County of **County**, Texas; the City of **City**, Texas; any political subdivision of any of the foregoing; and any other political subdivision, agency, or instrumentality exercising jurisdiction over Developer or the Property.

“Governmental Requirements” means all federal, state, and local laws, statutes, ordinances, rules, regulations, orders, and decrees of any court, administrative body, or tribunal related to the activities and performances under this Agreement.

“Grant Agreement” means the Multi-Family Residential Construction Services Grant Agreement executed by and between the GLO and Developer, effective on **Date**.

“HUD” means the United States Department of Housing and Urban Development.

“Low- to Moderate-Income Household” or “LMI Household” means families and individuals whose Annual Incomes do not exceed eighty percent (80%) of the median family income or such other income limits as determined by HUD.

“Project” means the **#**-Unit multi-family rental housing development (including Developer’s activities concerning the ownership, construction, and operation) located on the Property. Such Project shall have, at a minimum, 51% of the total Units designated for use as affordable rental housing for Low- to Moderate-Income Households.

“Project Documents” means all tenant lists, applications (whether accepted or rejected), leases, lease addenda, tenant and Developer certifications, advertising records, waiting lists, rental calculations and rent records, Utility Allowance documentation, income examinations and re-examinations relating to the Project, and any other Developer-provided documents otherwise necessary to sufficiently evidence compliance with this Agreement.

“Property” means the real property located at **Address**, more particularly described in **Exhibit A**.

“Qualifying Unit” means a Unit occupied by or designated to be occupied by a Low- to Moderate-Income Household or an Extremely Low-Income Household in accordance with this Agreement.

“Term” means the twenty-year (20-year) period that commences on the latest date on which the Agreement is properly recorded in the real property records of the county clerks for all counties in which the Project is physically located.

“Unit” means a residential dwelling in the Project containing separate and complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation.

“Utility Allowance” means a monthly allowance, as provided by the local public housing authority or as otherwise allowed by HUD rules and the GLO rules, for utilities and services (excluding telephone services) to be paid by the tenant.

Contextual Note: Unless the context clearly indicates otherwise, an above definition for a singular term shall also apply (where appropriate) to the plural form of such term and vice versa to the extent necessary for giving the proper meanings to the terms defined in this Article II and/or terms otherwise used in this Agreement.

III. REPRESENTATIONS AND WARRANTIES OF DEVELOPER

3.01 REPRESENTATIONS AND WARRANTIES

Developer represents, warrants, and covenants to the GLO the following.

- (a) Developer has validly executed this Agreement, which constitutes the binding obligation of Developer. Developer has full power, authority, and capacity to do the following:
 - (i) enter into this Agreement,
 - (ii) carry out Developer's obligations as described in this Agreement, and
 - (iii) assume responsibility for compliance with all applicable Governmental Regulations.
- (b) To the best of Developer's knowledge, the making of this Agreement and Developer's obligations hereunder:
 - (i) will not violate any contractual covenants or restrictions (1) between Developer or any third party or (2) affecting the Property;
 - (ii) will not conflict with any of the instruments that create or establish Developer's authority if Developer is not an individual;
 - (iii) will not conflict with any applicable public or private restrictions;
 - (iv) do not require any consent or approval of any public or private authority that has not already been obtained; and
 - (v) are not threatened with invalidity or unenforceability by any action, proceeding, or investigation, pending or threatened, by or against (1) Developer, without regard to capacity; (2) any person with whom Developer may be jointly or severally liable; or (3) the Property or any part thereof.
- (c) To the best of the Developer's knowledge, Developer knows of no action, litigation, investigation, or proceeding now pending or threatened against Developer, the Project, and/or the Property that, if adversely determined, could individually or in the aggregate have an adverse effect on title to or the use, enjoyment, or value of the Project or Property or any portion thereof or that could in any way interfere with the consummation or enforceability of this Agreement.
- (d) All warranties, representations, and certifications made and all information and materials submitted, or caused to be submitted, by Developer to the GLO in connection with the Project are true and correct. There have been no material changes or conditions affecting any of such warranties, representations, certifications, materials, or other information prior to the effective date thereof.
- (e) Developer has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions herein. In any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

- (f) Developer has freely and without reservation placed itself under the obligations of this Agreement. The receipt of funding from the GLO in the form of CDBG-DR funds pursuant to the Grant Agreement is an essential part of the consideration for this Agreement.
- (g) Developer shall ensure each Unit in the Project contains separate and complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation.
- (h) Developer shall ensure the Project shall remain in compliance with the affordability and accessibility requirements of this Agreement.
- (i) Developer shall ensure all common areas on the Property including, without limitation, any laundry or community facilities, shall be for the exclusive use of the tenants and their guests and shall not be available for general public use during the Term of this Agreement.
- (j) Developer will not sell, transfer, or exchange any portion of the Project unless it sells, transfers, or exchanges the entire Project to the same person.
- (k) Developer shall not permit the use of any Unit for any purpose other than rental housing during the Term of this Agreement, unless required by law.
- (l) If the Project, or any part thereof, is damaged, destroyed, condemned, or acquired for public use, Developer will use its best efforts to repair and restore the Project either to substantially the same condition as existed prior to the event causing damage or destruction or to relieve the condemnation. Developer will thereafter operate the Project in accordance with the terms of this Agreement.

IV. AFFORDABILITY AND ACCESSIBILITY REQUIREMENTS

4.01 OCCUPANCY REQUIREMENTS

Developer represents, warrants, and covenants that the Project, for the term of the Agreement, shall remain in compliance with the following affordability requirements:

(a) **Long-Term Affordability Requirements**

Notwithstanding anything herein to the contrary, Developer must use, at a minimum, 51% of the total number of Units for affordable rental housing for Low- to Moderate-Income Households for the duration of the Term. Developer has designated **Number (#)** of the **Number (#)** total Units as Qualifying Units to be occupied by Low- to Moderate-Income Households.

(b) **Accessibility**

- (i) At least two (2) Units or five percent (5%) of all Units, whichever is greater, shall be designed to be made accessible for an individual with mobility impairment disabilities under Section 504 of the Rehabilitation Act of 1973. Developer has designed **Number (#)**, or **Number** percent (**#%**) of all Units, to be accessible for individuals with a mobility impairment disability as described above.
- (ii) At least one (1) Unit(s) or two percent (2%) of all Units, whichever is greater, shall be designed and built to be accessible for persons with hearing

or vision impairments in accordance with the accessibility requirements under Section 504 of the Rehabilitation Act of 1973. Developer has designed **Number (#)**, or **Number percent (#%)** of all Units, to be accessible for an individuals with hearing or vision impairment disabilities as described above.

(iii) New Construction of Single-Family Units

If the Project includes the new construction of single-family Units [one (1) to three (3) Units per building], Developer shall construct every Unit to meet or exceed the accessibility requirements of Section 2306.514 of the Texas Government Code, as may be amended from time to time.

V. GROSS-RENT RESTRICTIONS

5.01 LOW- TO MODERATE-INCOME HOUSEHOLDS

The maximum monthly rent (including the tenant-paid portion of the rent and any Utility Allowance and/or rental assistance payments received) charged by Developer for the **Number (#)** Qualifying Units, as specified in **Section 4.01(a)**, occupied by Low- to Moderate-Income Households, not including Extremely Low-Income Households, must be set at levels that are affordable to Low- to Moderate-Income Households. Such maximum monthly rent shall not exceed the higher of (a) High Home Investment Partnership (“HOME”) Rents (as defined under 24 C.F.R. § 92.252 *et seq.*), as amended; or (b) exception rents allowed by HUD on project-based Section 8 properties pursuant to 24 C.F.R. Part 252(b)(2), as amended.

5.02 EXTREMELY LOW-INCOME HOUSEHOLDS

The maximum monthly rent (including the tenant-paid portion of the rent and any Utility Allowance and/or rental assistance payments received) charged by Developer for the **zero (0)** Qualifying Units occupied by Extremely Low-Income Households must be set at levels that are affordable to Extremely Low-Income Households and shall not exceed the thirty percent (30%) maximum-rent limits determined by HUD and published on an annual basis with adjustment for family size.

VI. COVENANTS

6.01 COVENANTS RUNNING WITH THE LAND

This Agreement and the covenants, reservations, and restrictions contained herein shall be deemed covenants running with the land for the benefit of Developer and its successors, the GLO and its successors, and/or HUD and its successors and shall pass to and be binding on Developer’s heirs, assigns, and successors in title to the Property. If the Property does not include title to land but includes a leasehold interest in such land, this Agreement and the covenants, reservations, and restrictions contained herein shall bind the leasehold interest as well as the Property and shall pass to and be binding upon all heirs, assigns, and successors to such interests. Upon expiration of the Term and in accordance with, and satisfaction of, the terms hereof, said covenants, reservations, and restrictions shall expire. During the Term, each contract, deed, or other instrument hereafter executed covering or

conveying the Property or any portion thereof shall conclusively be held to be executed, delivered, and accepted subject to such covenants, reservations, and restrictions—regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed, or other instrument. If a portion of the Property is conveyed during the Term, all such covenants, reservations, or restrictions shall run to each portion of the Property.

Developer, at its own cost and expense, shall cause this Agreement to be duly recorded, filed, re-recorded, and re-filed as needed in the real property records of the county clerk for each county in which the Project is physically located. Developer shall pay, or cause to be paid, all recording, filing, or other taxes, fees, and charges. Developer shall comply with all such statutes and regulations as may be required by law in order to establish, preserve, and protect the ability of the GLO or HUD to enforce this Agreement.

VII. DEFAULT, ENFORCEMENT, AND REMEDIES

7.01 EVENTS OF DEFAULT

If Developer defaults in the performance of an obligation under this Agreement or breaches any representation, warranty, or covenant set forth herein, and if such default remains uncured for a period of thirty (30) days after receiving written notice thereof, the GLO, HUD, and/or any other party listed in **Section 7.02** may take action at law or in equity. If the default in performance and/or breach of representation, warranty, or covenant cannot be reasonably cured within thirty (30) days, Developer shall have a reasonable amount of additional time to cure the default, if Developer institutes action to cure the default within the thirty (30) day period, and if Developer then proceeds with reasonable diligence thereafter to cure the default.

7.02 REMEDIES AND ENFORCEABILITY

In the event Developer defaults under **Section 7.01** or violates of any of the provisions of this Agreement, one or more of the following actions may be taken by the appropriate party to abate, prevent, or enjoin any such violation or to recover monetary damages caused by such violation.

- (a) The GLO or HUD may:
 - (i) Apply to any court having jurisdiction of the subject matter for specific performance of this Agreement for an injunction against any violation of this Agreement or for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Agreement; or
 - (ii) Take any and all action at law, in equity, or otherwise for such relief as may be appropriate, including recapturing federal funds expended for the Project. The amount to be recaptured shall be decreased by one-twentieth (1/20) of the total amount of CDBG-DR funds expended for the Project for each year that Developer complies with this Agreement. It is acknowledged that the beneficiaries of Developer's obligations cannot be adequately compensated by monetary damages in the event of Developer default. The GLO shall be entitled to its reasonable attorneys' fees in any judicial action

in which the GLO prevails. The GLO or HUD shall also be compensated for fees associated with additional compliance monitoring during corrective periods for noncompliance upon a default by Developer hereunder.

- (b) The occupancy and maximum-rent requirements set forth herein shall inure to the benefit of LMI Households or ELI Households, and such requirements may be judicially enforced against Developer. Any of the persons or entities described above shall be entitled to judicially enforce this Agreement in the same manner in which the GLO may seek judicial enforcement and shall be entitled to reasonable attorneys' fees. Further, any deed, lease, conveyance, or contract made in violation of this Agreement shall be void and may be set aside on petition of one (1) or more of the Parties to the Agreement.

All successors in interest, heirs, executors, administrators, or assigns shall be deemed Parties to this Agreement to the same effect as the original signer. When any such conveyance or other instrument is set aside by decree of a court of competent jurisdiction, all costs and expenses of such proceedings shall be taxed against the offending Party or Parties and shall be declared by the court to constitute a lien against the wrongfully deeded, sold, leased, or conveyed real estate until paid. Such lien may be enforced in such a manner as the court may order.

7.03 CUMULATIVE AND CONCURRENT REMEDIES

All rights, powers, and remedies of the GLO provided for in this Agreement or currently or hereafter existing at law, in equity, or by statute or otherwise shall be cumulative and concurrent. The exercise by the GLO of any of the right, power, or remedy provided for in this Agreement or currently or hereafter existing at law, in equity, or by statute or otherwise shall not preclude the simultaneous or later exercise by the GLO of any or all of such other rights, powers, or remedies as permitted by law.

7.04 SOVEREIGN IMMUNITY

THE GLO IS AN AGENCY OF A SOVEREIGN STATE. ALL PARTIES TO THIS AGREEMENT ACKNOWLEDGE THAT THE GLO CANNOT WAIVE SOVEREIGN IMMUNITY AND THAT NO INTENT TO DO SO IS EXPRESSED OR IMPLIED IN THIS AGREEMENT OR ANY ANCILLARY AGREEMENT.

VIII. ADMINISTRATION

8.01 CERTIFICATION BY DEVELOPER

During the Term, Developer shall, at least annually or as the GLO may otherwise approve, submit to the GLO in a form prescribed by the GLO a certificate of continuing compliance with this Agreement.

8.02 MAINTENANCE OF DOCUMENTS

All Project Documents must be retained for the Term of the Agreement. All Project Documents shall at all times be kept separate and identifiable from any other business of Developer that is unrelated to the Property. All Project Documents shall be maintained in compliance with the CDBG-DR Regulations and any other requirements of the State of

Texas. All Project Documents shall be kept in a reasonable condition for proper audit and shall be subject to examination and photocopying during business hours by representatives of the GLO, HUD, or the United States Comptroller General.

8.03 COMPLIANCE REVIEW

During the Term, Developer agrees to permit the GLO, HUD, a designated representative of the GLO or HUD, and/or any other designated federal or state agency to access the Property for the purpose of performing monitoring for compliance with the provisions contained herein. In conducting any compliance reviews, the GLO, HUD, or other designated federal or state agency will rely primarily on information obtained from Developer's records and reports, on-site monitoring, and audit reports. The GLO, HUD, or other designated federal or state agency may also consider other relevant information gained from other sources, including litigation and citizen complaints.

8.04 AFFIRMATIVE MARKETING

Developer shall maintain and abide by an affirmative marketing plan and program as outlined in the requirements found at 24 C.F.R. § 200.620. Developer further agrees to maintain documents and records evidencing its compliance with said plan and the affirmative marketing requirements.

8.05 FEDERAL AND STATE REQUIREMENTS

For the Term of this Agreement, Developer must comply with all applicable federal, state, and local laws, statutes, ordinances, and regulations, including those listed in the CDBG-DR Regulations and Governmental Requirements as the same may be amended.

IX. MISCELLANEOUS

9.01 AMENDMENTS

This Agreement may not be amended or modified except by written instrument signed by Developer and GLO (or, with the consent of the GLO, their respective heirs, successors, or assigns) and shall not be effective until it is recorded in the real property records of the county in which the Property is located.

9.02 NOTICES

Any notices required under this Agreement shall be deemed delivered when deposited either in the United States mail (certified, postage paid, return receipt requested) or with a common carrier (overnight, signature required) to the appropriate address below.

Developer:

Developer Name

Street Address

City, ST Zip

Attention: Representative Name

GLO:

Jeff Crozier
Multi-Family Housing Manager, Community Development and Revitalization
1700 N. Congress Ave.
Austin, TX 78701

With a Copy to the GLO:

Texas General Land Office
1700 N. Congress Avenue, 7th Floor
Austin, TX 78701
Attention: Contract Management Division

Notice given in any other manner shall be deemed effective only if and when received by the Party to be notified. Either Party may change its address for notice by written notice to the other Party sent in accordance with this section.

9.03 ENTIRE AGREEMENT

This Agreement and any Exhibits contain the entire understanding between the Parties hereto with respect to the subject matter thereof. There are no representations, oral or otherwise, other than those expressly set forth herein. Time is of the essence of this Agreement.

9.04 COOPERATION

Should any claims, demands, suits, or other legal proceedings arise from any matter relating to this Agreement and be made or instituted by any person against the GLO; officers, agents, or employees of the GLO; the State of Texas; or officers, agents, or employees of the State of Texas, Developer shall fully cooperate by providing all pertinent information and reasonable assistance in the defense or other disposition thereof. Developer 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.

9.05 SEVERABILITY

If a court of competent jurisdiction determines any provision of this Agreement is invalid, void, or unenforceable, the remaining terms, provisions, covenants, and conditions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

9.06 COUNTERPARTS

This Agreement and any amendments hereto may be executed in any number of counterparts, each of which shall be an original, and all such counterparts shall constitute one and the same Agreement binding all Parties hereto, notwithstanding that all the Parties shall not sign the same counterpart.

9.07 GOVERNING LAW AND VENUE

This Agreement and the rights and obligations of the Parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law

provisions. Venue of any suit brought under this Agreement shall be in a court of competent jurisdiction in Travis County, Texas. Developer irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of *forum non conveniens*, that it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction with respect to this Agreement or any related document. **NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**

9.08 INDEMNIFICATION

Developer 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, attorneys' fees, and expenses arising out of, connected with, or resulting from any acts or omissions of Developer or its officers, agents, employees, representatives, suppliers, contractors, subcontractors, assignees, designees, or suppliers of contractors or subcontractors in the execution or performance of the Agreement. Developer and the GLO shall furnish timely written notice to each other of any such claim. Developer shall be liable to pay all costs of defense, including attorneys' fees. Developer shall coordinate its defense with the Office of the Attorney General when Texas state agencies are named defendants in any lawsuit, and Developer may not agree to any settlement without first obtaining the written consent of the Office of the Attorney General.

9.09 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 despite 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 Developer representative hereby declares that he/she has examined this Agreement and, to the best of his/her knowledge and belief, any statements, entries, or claims made by Developer are true, accurate, and complete.

SIGNATURE PAGES FOLLOW

SIGNATURE PAGE FOR ATTACHMENT H TO GLO CONTRACT NO. ##-###-###-####
LAND USE RESTRICTION AGREEMENT
2019 DISASTERS AFFORDABLE RENTAL PROGRAM

GENERAL LAND OFFICE

COMPANY NAME

Mark A. Havens, Chief Clerk /

Deputy Land Commissioner

Date of execution: _____

Print Name: _____

Title: _____

Date of execution: _____

OGC _____

PM _____

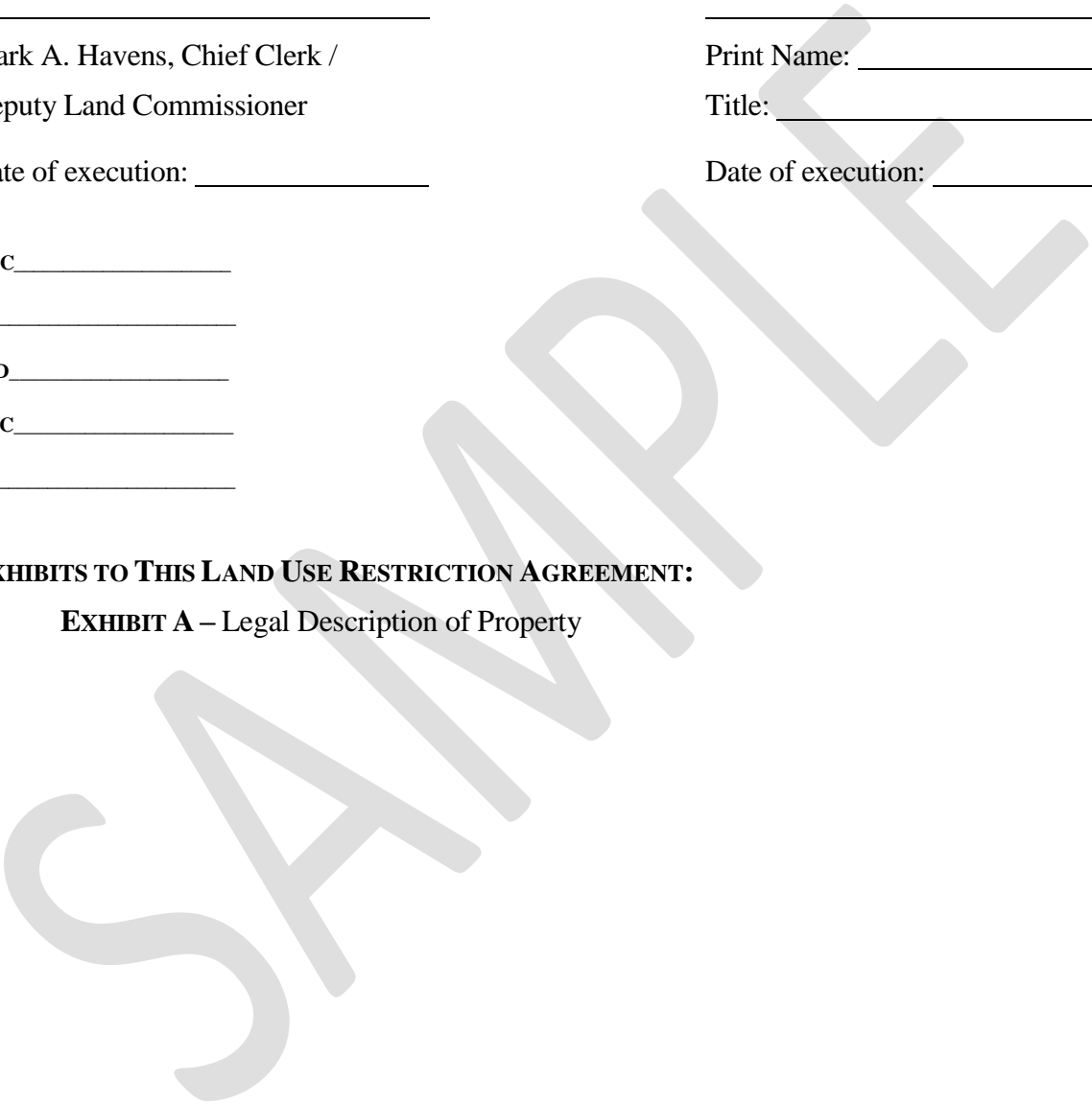
SDD _____

DGC _____

GC _____

EXHIBITS TO THIS LAND USE RESTRICTION AGREEMENT:

EXHIBIT A – Legal Description of Property



THE STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME—the undersigned, a Notary Public in and for the State of Texas—on this day personally appeared _____, known to me to be the _____ of _____ and to be the person whose name is subscribed to the foregoing instrument. Such person acknowledged to me that the subscription of such name and execution of such instrument were the acts of said company for the purposes and consideration therein expressed and in the capacity herein stated.

GIVEN UNDER MY HAND AND SEAL OF THIS OFFICE this ____ day of _____, _____.

Notary Public, State of Texas

NOTE TO COUNTY CLERK: SECTION 12.006 OF THE TEXAS PROPERTY CODE, COMBINED WITH SECTION 2051.001 OF THE TEXAS GOVERNMENT CODE, AUTHORIZES THE RECORDATION OF THIS INSTRUMENT WITHOUT ACKNOWLEDGMENT OR FURTHER PROOF OF THE SIGNATURE OF THE COMMISSIONER OF THE TEXAS GENERAL LAND OFFICE.

EXHIBIT A - LEGAL DESCRIPTION OF PROPERTY

LEGAL DESCRIPTION

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SAMPLE