



## APPRAISAL SERVICES CONTRACT GLO CONTRACT No. 24-003-007-E255

The **GENERAL LAND OFFICE** (collectively, the “GLO”) and **GARY BROWN & ASSOCIATES, INC.**, Tax Identification Number (TIN) **17602654117** (“Provider”), each a “Party” and collectively “the Parties,” enter into the following contract for professional appraisal services (the “Contract”) pursuant to the Professional Services Procurement Act, Texas Government Code Chapter 2254.

### I. DEFINITIONS / INTERPRETIVE PROVISIONS / PROJECT DESCRIPTION

#### 1.01 DEFINITIONS

“[Administrative and Audit Regulations](#)” means all applicable statutes, regulations, and other laws governing administration or audit of this Contract, including Title 2, Part 200, Code of Federal Regulations and Chapters 321 and 2254 of the Texas Government Code.

“[Appraisal Assignment](#)” means the assignment of a Project for one or more defined pieces of real property.

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

“[Contract](#)” means this entire document, along with any Attachments, both physical and incorporated by reference.

“[Deliverables](#)” means a unit or increment of work, including any item, report, data, document, photograph, drawing, process, computer program or code, or other submission required to be delivered under the terms of this Contract, in whatever form.

“[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 the Governmental Accounting Standards Board.

“[General Affirmations](#)” means the statements in [Attachment A](#), attached hereto and incorporated herein for all purposes, which Provider affirms by executing this Contract.

“[GLO](#)” means, collectively, the Texas General Land Office, Texas Veterans Land Board, and their officers, employees, and designees.

“[HUB](#)” means Historically Underutilized Business, as defined by Chapter 2161 of the Texas Government Code.

“[Intellectual Property](#)” means patents, rights to apply for patents, trademarks, trade names, service marks, domain names, copyrights, 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.

“Mentor Protégé” means the Comptroller of Public Accounts’ leadership program described at: <https://comptroller.texas.gov/purchasing/vendor/hub/mentor.php>

“Notice to Proceed” or “NTP” means, for each Appraisal Assignment under this Contract, the written notice from the GLO directing Provider to begin the work described therein and specifying the date before which Provider may not begin work. A sample NTP is attached hereto and incorporated herein in its entirety for all purposes as **Attachment C**, however, the GLO may unilaterally amend its NTP form at any time.

“Project” means the professional appraisal services described in **SECTION 1.03** of this Contract.

“Prompt Pay Act” means Chapter 2251, Subtitle F of Title 10 of the Texas Government Code.

“Public Information Act” means Chapter 552 of the Texas Government Code.

“Solicitation” means the GLO’s Request for Qualifications (“RFQ”) No. X0027857-SK, incorporated herein by reference for all purposes in its entirety, including any attachments or Addenda.

“Solicitation Response” means Provider’s full and complete response to the Solicitation, which response is incorporated herein by reference for all purposes in its entirety, including any attachments.

“Subcontractor” means an individual or business that contracts with Provider to perform part or all of Provider’s obligations under this Contract.

“Travel Regulations” means all applicable statutes, regulations, laws, and Comptroller guidance related to reimbursement for Provider’s travel expenses, including: Title 34, Section 5.22, of the Texas Administrative Code; Chapter 660 of the Texas Government Code; the General Appropriations Act; and *Textravel*, the Comptroller’s travel regulation guidance available on the Comptroller’s website.

“USPAP” means the Uniform Standards of Professional Appraisal Practice.

“Work” means all services to be performed, goods to be delivered, and any appurtenant actions performed and items produced, conceived, or developed, including but not limited to Deliverables, in the performance of the Project.

“You Connect” means the interactive database used by the GLO and Provider that electronically maintains the complete appraisal process and data associated with the property, including solicitation, engagement, review, storage of appraisal, and invoice documents.

## **1.02 INTERPRETIVE PROVISIONS**

- a) The meanings of defined terms apply to the singular and plural forms of the defined terms;
- b) The words “hereof,” “herein,” “hereunder,” and similar words refer to this Contract as a whole and not to any particular provision, section, Attachment, work order, Notice to Proceed or schedule of this Contract unless otherwise specified;

- c) The term “including” means “including, without limitation.”
- d) Unless otherwise expressly provided, references to contracts include subsequent amendments and other modifications thereto, to the extent such amendments and modifications are not prohibited by the terms of this Contract, and a reference to a statute or regulation includes statutory or regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation;
- e) The captions and headings of this Contract are for convenience of reference only and shall not affect the interpretation of this Contract;
- f) All Attachments to this Contract, including those incorporated by reference, and any amendments are considered part of the terms of this Contract;
- g) This Contract may use several limitations, regulations, or policies to regulate the same or similar matters. Each such limitation, regulation, and policy is cumulative and shall be performed in accordance with its terms;
- h) Unless otherwise expressly provided, reference to any action of or by the GLO by way of consent, approval, or waiver is deemed modified by the phrase “in its/their sole discretion.” Notwithstanding the preceding, the GLO shall not unreasonably withhold or delay any approval, consent, or waiver required or requested of it;
- i) Time is of the essence in this Contract;
- j) If this Contract and its attachments or any Notice to Proceed conflict, such conflicts shall be resolved in the following order of precedence: First, the signed Contract; then, any applicable Notice to Proceed issued under this Contract; then Attachments to the Contract in this order: Attachment A, Attachment B, then the Solicitation; then the Solicitation Response; then Attachment C.

### **1.03 PROJECT**

Provider shall perform professional appraisal services for the appraisal of Permanent School Fund (PSF), State Real Property (SRP), and other real property, as directed by the GLO (the “Project”). Provider shall perform the Project in accordance with the Solicitation, this Contract, all Attachments, and any applicable Notice to Proceed issued pursuant to this Contract.

### **1.04 APPRAISAL ASSIGNMENTS**

- a) The GLO may request from Provider a proposal to complete an appraisal. Provider’s proposal must include pricing. If selected to perform the appraisal, Provider must fulfill all requirements of the Appraisal Assignment within eighteen (18) days of the “Assigned to Field” date on the Appraisal / Inspection Report. The GLO may issue multiple Appraisal Assignments during the term of this Contract, all of which shall be in writing.
- b) If the GLO selects Provider to perform an appraisal, the GLO shall issue an NTP authorizing Provider to perform the appraisal. Each NTP shall list: Tasks and Deliverables to be completed by Provider; Deliverable due dates; Provider’s Fee; and any other information or special conditions necessary for completion of the appraisal.
- c) The GLO does not guarantee or represent that it will issue Appraisal Assignments to Provider. All Work requested under this Contract will be requested on an irregular

and as-needed basis throughout the Contract term; the GLO makes no guarantee of volume or usage under this Contract.

## **1.05 REPORTING REQUIREMENTS**

- a) Provider shall submit Appraisal Reports via You Connect, unless directed otherwise by the GLO Project Manager. All Appraisal Reports Provider submits must comply with the USPAP and must be conducted in accordance with USPAP Standard 1. The Appraisal Report format must be written in conformance with USPAP Standard 2. Appraisal Reports must include a detailed highest and best use analysis, comparable sale profiles and an adjustment grid supporting the value conclusion, and all client and appraisal services requirements described in the Appraisal Assignment, NTP, Contract, or other applicable document. Appraisal Reports must comply with applicable standards and requirements described in the Solicitation. Mandatory appraisal requirements and other client and appraisal services requirements that may pertain to specific conditions/assignments. All appraisals will be reviewed for compliance with USPAP Standard 3 and for of the reasonableness of value conclusion. Provider shall respond to GLO inquiries within one (1) business day. Provider shall respond to reconsideration of value requests within three (3) business days.
- b) All appraisal reports shall contain a GPS reading indicating the latitude and longitude of the midpoint of the property's road frontage. Properties that are flag-shaped will require additional GPS readings at the main body of the tract.

## **II. TERM**

### **2.01 DURATION**

- a) This Contract shall be effective as of the date executed by the last Party and shall terminate on August 31, 2028. The Parties may renew the Contract by mutual written agreement. For projects funded by time-limited revenue sources, the Parties may extend the term of the Contract and related NTP beyond August 31, 2028, to coincide with the expiration of such time-limited revenue sources.
- b) This Contract is effective for the term specified herein. Any services Provider performs before the Effective Date or after the Contract's termination or expiration are performed at Provider's sole risk and the GLO may choose not to compensate Provider for such services.

### **2.02 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 any such notice, Provider shall immediately cease work, terminate any subcontracts, and incur no further expense related to this Contract or any Appraisal Assignments or NTPs issued under 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.

### **2.03 ABANDONMENT OR DEFAULT**

If Provider abandons work or defaults on the Contract, the GLO may terminate the Contract without notice. Provider will not be considered in any re-solicitation of the services described herein and may not be considered in future solicitations for similar services, unless the specification or scope of work changes significantly. The GLO will

determine the period of suspension based on the seriousness of the abandonment or default.

### III. CONSIDERATION

#### 3.01 COMPENSATION

Provider will be compensated on a negotiated fee basis per Appraisal Assignment, if any.

#### 3.02 TRAVEL EXPENSES

- a) The GLO will not reimburse Provider for travel expenses of any kind without prior written GLO approval. The GLO will only reimburse travel expenses directly attributable to Provider's performance of this Contract and Appraisal Assignments issued pursuant to this Contract at the rates established or adopted by the Comptroller of the State of Texas, as outlined in the Travel Regulations.
- b) Subject to the maximum amount authorized in each Appraisal Assignment and upon specific, prior, written approval by the GLO, lodging, travel, and other incidental direct expenses may be reimbursed under this Contract for professional or technical personnel who are working away from the cities in which they are permanently assigned and conducting business specifically authorized in the scope of services in the applicable Appraisal Assignment.
- c) The limits for reimbursements are the rates established or adopted by the Comptroller, as outlined in the Travel Regulations. **Provider understands and acknowledges that any travel-expense reimbursement by the GLO is not a per diem. The GLO will only reimburse actual, allowable expenses in accordance with the Travel Regulations. Provider must submit itemized receipts to support any request for travel-expense reimbursement.**

#### 3.03 INVOICES

Invoices must:

- a) be submitted to [vendorinvoices@glo.texas.gov](mailto:vendorinvoices@glo.texas.gov) and via You Connect to the GLO Project Manager stipulated in the applicable Notice to Proceed issued, if any;
- b) be supported by documentation that, in the judgment of the GLO, allows for full substantiation of the costs incurred; and
- c) **prominently display the related GLO Contract Number and Appraisal Assignment Number.**

#### 3.04 PAYMENT

The Prompt Pay Act generally applies to payments to Provider. **However, the Prompt Pay Act does not apply if Provider does not send invoices to [vendorinvoices@glo.texas.gov](mailto:vendorinvoices@glo.texas.gov) and in accordance with the appraisal assignment.** If Provider does not submit invoices in strict accordance with the instructions in this section and the applicable NTP, payment of invoices may be significantly delayed. The GLO shall not pay interest, fees, or other penalties for late payments resulting from Provider's failure to submit invoices in strict accordance with the instructions in this section and the applicable NTP.

#### **IV. PROVIDER'S WARRANTY, AFFIRMATIONS, AND ASSURANCES**

##### **4.01 PERFORMANCE WARRANTY**

- a) Provider warrants that it will perform all Work under this Contract consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.
- b) Provider warrants that all Deliverables it completes under this Contract shall: meet or exceed the standards of Provider's trade, profession, or industry; meet or exceed the specifications set forth in the Contract, Attachments, applicable Appraisal Assignment, and applicable NTP; and be fit for ordinary use, of good quality, and with no material defects.
- c) If Provider delivers defective or damaged Deliverables, fails to complete Deliverables timely, or fails to perform satisfactorily under this Contract, the GLO may require Provider, at its sole expense, to: (a) repair or replace defective or damaged Deliverables or reperform services; (b) refund payment for nonconforming services or defective or damaged Deliverables and accept the return of such Deliverables; and/or (c) take necessary action to ensure that future performance and Deliverables conform to the Contract.

##### **4.02 GENERAL AFFIRMATIONS**

To the extent they apply, Provider certifies it has reviewed the General Affirmations in **Attachment A**, and that Provider is in compliance with all the requirements contained therein.

#### **V. STATE FUNDING**

##### **5.01 STATE FUNDING**

- a) This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or the GLO in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VIII, Section 6 of the Texas Constitution, the Parties agree all obligations of the GLO hereunder are subject to the availability of state funds. If such 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 respective interests, accrued up to the date of termination.
- b) Any claim by Provider for damages under this Contract may not exceed amounts due and owing to Provider or the amount of funds appropriated for payment, but not yet paid to Provider, under the annual budget in effect at the time of the breach. Nothing in this provision shall be construed as a waiver of sovereign immunity.

#### **VI. OWNERSHIP, INTELLECTUAL PROPERTY, AND THIRD-PARTY RELIANCE**

##### **6.01 OWNERSHIP AND INTELLECTUAL PROPERTY**

- a) The GLO shall own, and Provider hereby irrevocably assigns to the GLO, all ownership rights, title, and interest in and to all Intellectual Property acquired or developed by Provider pursuant to this Contract, including, without limitation, all Intellectual Property in and to reports, drafts of reports, data, drawings, computer programs and codes, and/or any other information or materials acquired or developed by Provider under this Contract. The GLO may obtain and hold in its name any and all patents, copyrights, trademarks, service marks, registrations, or such other

protections, including extensions and renewals thereof, as may be appropriate to the subject matter. Provider agrees and acknowledges that all expressive content subject to copyright protection, including, without limitation, all reports, drafts of reports, drawings, artwork, photographs, video, computer programs and codes, and/or any other expressive content acquired or developed by Provider pursuant to this Contract is a “work made for hire” under the United States Copyright Act of 1976. If, for any reason, any expressive content subject to copyright protection or any portion of such expressive content is not a work made for hire, Provider hereby irrevocably assigns to the GLO ownership of all rights, title and interest in and to such expressive content or such portion of such expressive content. Such rights, title, and interest include, without limitation, the entire and exclusive copyright in the expressive content and all rights associated with the copyright, including reproduction rights, distribution rights, the right to prepare translations and other derivative works, and the right to display the expressive content in all formats and media now known or developed in the future.

- b) Provider must give the GLO and the State of Texas, as well as any person designated by the GLO or the State of Texas, all assistance and execute documents required to perfect the rights granted to the GLO herein, without any charge or expense beyond the stated amount payable to Provider for the services authorized under this Contract.

## **VII. RECORDS, AUDIT, PROPRIETARY INFORMATION AND PUBLIC DISCLOSURE**

### **7.01 BOOKS AND RECORDS**

Provider shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records sufficient to allow the GLO, the Texas State Auditor’s Office, the United States Government, and/or their authorized representatives to determine Provider’s compliance with this Contract and all applicable laws, rules, and regulations.

### **7.02 INSPECTION AND AUDIT**

- a) All records related to this Contract, including records of Provider and its Subcontractors, shall be subject to the Administrative and Audit Regulations.
- 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. Provider shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Provider and the requirement to cooperate is included in any subcontract it awards.
- c) State agencies authorized to audit and inspect Provider, its records, subcontractors, and subcontractors’ records include the GLO, the GLO’s contracted examiners, the State Auditor’s Office, the Texas Attorney General’s Office, the Texas Comptroller of Public Accounts, and their authorized designees.

### 7.03 PERIOD OF RETENTION

Each Party shall retain in its records this Contract and all documents related to this Contract. Unless a longer retention period is specified by applicable federal law or regulation, the Parties may destroy the Contract and related documents only after the seventh anniversary of the date: the Contract is completed or expires; or all issues that arise from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the Contract or related documents are resolved.

### 7.04 CONFIDENTIALITY

To the extent permitted by law, Provider and the GLO shall keep all information, in whatever form produced, prepared, observed, or received by Provider 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 Provider or the GLO; or (c) information that Provider or the GLO is otherwise required to keep confidential by this Contract. Provider must not advertise that it is doing business with the GLO, use this Contract as a marketing or sales tool, or 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.

### 7.05 PUBLIC RECORDS

The GLO shall post this Contract to the GLO’s website. Provider 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, Provider 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 Provider believes to be excepted from disclosure as “confidential” or a “trade secret,” Provider waives any and all claims it may make against the GLO for releasing such information without prior notice to Provider. The Attorney General will ultimately determine whether any information may be withheld from release under the PIA. Provider 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](mailto:PIALegal@glo.texas.gov). If a request for information was not written, Provider shall forward the third party’s contact information to the above-designated e-mail address.

## VIII. MISCELLANEOUS PROVISIONS

### 8.01 INSURANCE

Provider shall acquire, for the duration of any Appraisal Assignment issued under this Contract, insurance with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount and in the form required by **Attachment B** of this Contract, **REQUIRED INSURANCE AND FORM**. Furthermore, Provider shall submit a certificate of liability insurance as required under this Contract if



requested, including 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. If the GLO determines any insurance policy fails to comply with the terms of this Contract, Provider shall secure such additional policies or coverage as the GLO may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Provider must submit renewal certificates for each type of coverage to the GLO.

## **8.02 TAXES/WORKERS’ COMPENSATION/UNEMPLOYMENT INSURANCE**

- a) Provider shall be solely liable and responsible for payment of Provider’s and Provider’s employees’ taxes of whatever kind, arising out of the execution or performance of the Contract. Provider shall comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers’ compensation. The GLO and the State of Texas shall not be liable to Provider 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) Provider shall indemnify, defend, and hold harmless the State of Texas, the GLO, and/or their officers, agents, employees, representatives, contractors, assignees, and/or designees from and against any and all liability, actions, claims, demands, damages, proceedings, or suits, and all related costs, attorney fees, and expenses arising out of, connected with, or resulting from tax liability, unemployment insurance, or workers’ compensation in the execution or performance of the Contract. Provider and the GLO shall furnish timely written notice to each other of any such claim. Provider shall be liable to pay all costs of defense including attorneys' fees. Provider shall coordinate its defense with the GLO and the Office of the Attorney General if the GLO or another Texas state agency is a named co-defendant with Provider in any suit. Provider 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.

## **8.03 LEGAL OBLIGATIONS**

Provider shall procure and maintain for the duration of this Contract 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 Provider to provide the goods or services required by this Contract. Provider shall pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Provider shall pay any such government obligations not paid by its subcontractors during performance of this Contract.

## **8.04 INDEMNITY**

TO THE EXTENT ALLOWED BY LAW, PROVIDER 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 PROVIDER 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 PROVIDER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. PROVIDER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

#### **8.05 INFRINGEMENT**

- a) TO THE EXTENT ALLOWED BY LAW, PROVIDER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE GLO AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF PROVIDER PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) THE GLO'S AND/OR PROVIDER'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE GLO BY PROVIDER OR OTHERWISE TO WHICH THE GLO HAS ACCESS AS A RESULT OF PROVIDER'S PERFORMANCE UNDER THE CONTRACT. PROVIDER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. PROVIDER SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY PROVIDER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, PROVIDER 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 PROVIDER OR IF THE GLO IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, THE GLO WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND PROVIDER WILL PAY ALL REASONABLE COSTS OF THE GLO'S COUNSEL.
- b) Provider shall have no liability under this section if the alleged infringement is caused in whole or in part by: (a) use of the product or service for a purpose or in a manner for which the product or service was not designed, (b) any modification made to the product without Provider's written approval, (c) any modifications made to the product by the Provider pursuant to Customer's specific instructions, or (d) any use of

the product or service by Customer that is not in conformity with the terms of any applicable license agreement.

- c) If Provider becomes aware of an actual or potential claim, or the GLO provides Provider with notice of an actual or potential claim, Provider shall, at Provider's sole expense: (a) procure for the GLO the right to continue to use the affected portion of the product or service, or (b) modify or replace the affected portion of the product or service with a functionally equivalent or superior product or service so that the GLO's use is non-infringing.

#### **8.06 ASSIGNMENT AND SUBCONTRACTS**

Provider shall not assign, transfer, or delegate any rights, obligations, or duties under this Contract without the prior written consent of the GLO. Notwithstanding this provision, it is mutually understood and agreed that Provider may subcontract with others for some or all of the services to be performed. In any approved subcontracts, Provider shall legally bind such subcontractor to perform and make such subcontractor subject to all the duties, requirements, and obligations of Provider as specified in this Contract. Nothing in this Contract shall be construed to relieve Provider of the responsibility for ensuring that the goods delivered and/or the services rendered by Provider and/or any of its subcontractors comply with all the terms and provisions of this Contract. Provider will notify the GLO in writing of any such subcontractor performing fifteen percent (15%) or more of the work under this Contract, including the name and taxpayer identification number of subcontractor, the task(s) being performed, and the number of subcontractor employees expected to work on the task(s).

#### **8.07 HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS) / MENTOR PROTÉGÉ**

In accordance with state law, it is the GLO's policy to assist HUBs whenever possible to participate in providing goods and services to the agency. The GLO encourages its contractors to adhere to this same philosophy in selecting subcontractors to assist in fulfilling their obligations with the GLO. In addition to information required by this Contract, Provider shall provide the GLO with details of any participation by a HUB in fulfilling Provider's duties and obligations arising hereunder. The GLO encourages its contractors to partner with certified HUBs that participate in the Comptroller's Mentor Protégé Program.

#### **8.08 RELATIONSHIP OF THE PARTIES**

Provider is associated with the GLO only for the purposes and to the extent specified in this Contract. Provider 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, employer-employee or principal-agent relationships, or any liability whatsoever with respect to the indebtedness, liabilities, or obligations of Provider or any other party. Provider shall be solely responsible for, and the GLO shall have no obligation with respect to: 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 to the State Employees Retirement System; accumulation of vacation leave or sick leave; or unemployment compensation coverage provided by the State.

## **8.09 COMPLIANCE WITH OTHER LAWS**

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

## **8.10 NOTICES**

Any notices required under this Contract shall be deemed delivered when deposited either in the United States mail, postage paid, certified, 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, Mail Code 158  
Austin, TX 78701  
Attention: Office of General Counsel

### **Provider**

Gary Brown & Associates, Inc.  
1313 Campbell Road, Bldg. B  
Houston, Texas 77055  
Attention: Authorized Signatory

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 as herein provided.

## **8.11 GOVERNING LAW; VENUE; SOVEREIGN IMMUNITY**

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. Provider irrevocably waives any objection, including any objection to personal jurisdiction, the laying of venue, or based on forum non conveniens, it has or may have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any related document. **NOTHING IN THIS CONTRACT SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO OR THE STATE OF TEXAS.**

## **8.12 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.

## **8.13 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 a "Force Majeure"), then, while so prevented, the affected party's obligation to comply with such covenant shall

be suspended, and the affected party shall not be liable for damages for failure to comply with such covenant. In any such event, the party claiming Force Majeure shall promptly notify the other party of the Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and shall resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, the GLO may terminate this Contract immediately upon written notification to Provider.

#### **8.14 DISPUTE RESOLUTION**

Except as otherwise provided by statute, rule, or regulation, Provider 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 constitute grounds for Provider 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 SOVEREIGN IMMUNITY BY THE GLO OR STATE OF TEXAS.

#### **8.15 ENTIRE CONTRACT AND MODIFICATION**

This Contract, its attachment(s), and any Appraisal Assignment or NTP issued in conjunction with this Contract 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 that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in such attachment(s) and/or Appraisal Assignment or NTP shall be harmonized with this Contract to the extent possible. Unless such attachment or Appraisal Assignment or NTP specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language shall be construed consistently with the terms of this Contract. This Contract may only be amended in a writing executed by authorized representatives of the Parties.

#### **8.16 COUNTERPARTS**

This Contract, as well as any Appraisal Assignment issued, may be executed in counterparts, each of which shall be an original, and all such counterparts shall together constitute but one and the same Contract or Appraisal Assignment, as the case may be. If the Contract is not executed by the GLO within thirty (30) days of execution by the other party, this Contract shall be null and void.

#### **8.17 PROPER AUTHORITY**

Each Party represents and warrants that the person executing this Contract on its behalf has the authority to enter into this Contract. Provider acknowledges that this Contract is effective for the term specified herein. Any services Provider performs before this Contract's effective date or after its termination or expiration are performed at Provider's sole risk.

## **8.18 SURVIVAL OF TERMS AND CONDITIONS**

The terms and conditions of this Contract related to the following subjects shall survive the termination of this Contract: definitions; interpretation; warranties; affirmations; prohibition on debts created on behalf of the State of Texas and/or the GLO; limitation of any Provider claim for damages to the amount of funds appropriated for payment but not yet paid to Provider; ownership; intellectual property; third-party reliance; books and records; inspection and audit; records retention period; confidentiality; public records; insurance; taxes; workers' compensation; unemployment insurance; Provider's obligation to procure and maintain, at its sole expense, all government licenses, authorizations, insurance, waivers, permits, and/or qualifications necessary for Provider or any subcontractors to provide the goods or services described in this Contract; indemnity; assignment and subcontracting; relationship of the parties; compliance with laws; notices; governing law and venue; severability; dispute resolution; merger and integration; invoice and fee verification; property rights; default; and amendment.

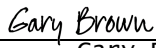
**SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE FOR GLO CONTRACT NO. 24-003-007-E255**

**GENERAL LAND OFFICE**

**GARY BROWN & ASSOCIATES, INC.**

DocuSigned by:  
  
\_\_\_\_\_  
Name: **Mark A. Havens**  
Title: **Chief Clerk**

DocuSigned by:  
  
\_\_\_\_\_  
Name: **GARY BROWN**  
Title: **President**

Date of execution: 8/28/2023

Date of execution: 8/25/2023

OGC 

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SDD 

DGC 

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**ATTACHMENTS TO THIS CONTRACT:**

- ATTACHMENT A – GENERAL AFFIRMATIONS**
- ATTACHMENT B – REQUIRED INSURANCE AND FORM**
- ATTACHMENT C – SAMPLE NOTICE TO PROCEED**

**INCORPORATED BY REFERENCE**

- SOLICITATION**
- SOLICITATION RESPONSE**

**ATTACHMENTS FOLLOW**

**GENERAL AFFIRMATIONS**

TO THE EXTENT APPLICABLE, Provider affirms and agrees to the following, without exception:

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

\* This section does not apply to a contract with a “governmental entity” as defined in Texas Government Code Chapter 2251.



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

9. Provider 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. Provider agrees that any payments due under the Contract shall be applied towards any debt or delinquency that is owed by Provider to the State of Texas.
11. Upon request of the GLO, Provider 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, Provider 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 Provider's submission of its offer to provide consulting services to the GLO or, in the alternative Provider, 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, Provider must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve any dispute arising under the Contract. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO OR, IF APPLICABLE, OF GOVERNMENTAL IMMUNITY BY PROVIDER.**
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, Provider 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 PROVIDER.**
  - a. Notwithstanding Texas Government Code, Chapter 2260.002(3) and Chapter 114.012 and any other statute or applicable law, if Provider's claim for breach of contract cannot be resolved by the Parties in the ordinary course of business, Provider may make a claim against the GLO for breach of contract and the GLO may assert a counterclaim against Provider as is contemplated by Texas Government Code, Chapter 2260, Subchapter B. In such event, Provider 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.

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- The notice must state with particularity: (1) the nature of the alleged breach; (2) the amount Provider 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 Provider 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 Provider'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 Provider. 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 Provider. 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 Provider 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. Provider 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 Provider: (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, Provider 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. Provider 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. Provider 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, Provider 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. Provider 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, Provider certifies that neither Provider nor any person or entity represented by Provider 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, Provider 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 Provider from providing free technical assistance.\*
21. Provider 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, Provider 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, Provider further represents and warrants that if a former employee of the GLO was employed by Provider within one year of the employee's leaving the GLO, then such employee will not perform services on projects with Provider 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.
24. IF THE CONTRACT IS NOT FOR ARCHITECTURE OR ENGINEERING SERVICES GOVERNED BY TEXAS GOVERNMENT CODE CHAPTER 2254, PROVIDER, TO THE

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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 PROVIDER 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 PROVIDER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. PROVIDER 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, PROVIDER, 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 PROVIDER'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE PROVIDER OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO PROVIDER, OR ANY OTHER ENTITY OVER WHICH PROVIDER EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY PROVIDER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. PROVIDER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.\*

26. TO THE EXTENT ALLOWED BY LAW, PROVIDER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE GLO AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF PROVIDER PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT,

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

27. Provider 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, Provider 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 Provider and legally empowered to contractually bind Provider 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, Provider 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.\*
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

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

\* This section does not apply to a contract with a "governmental entity" as defined in Texas Government Code Chapter 2251.



## REQUIRED INSURANCE

GENERALLY. Provider shall, at its sole expense, acquire, maintain, and keep in force for the duration of this Contract, insurance in the amounts attached herein and under the requirements specified herein. Furthermore, unless specified or otherwise agreed to by the GLO, the required insurance shall be in effect prior to the commencement of work by Provider 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 Provider 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 Provider. Provider's insurance policies shall apply on a primary basis. If, at any time during the Contract, an insurer or surety fails to provide insurance to Provider or otherwise fails to comply with the requirements of this Contract, Provider shall immediately notify the GLO and replace such insurance or bond with an insurer meeting such requirements. General aggregate limits of Provider's Commercial General Liability policy shall apply per project. Provider'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 Provider shall not relieve Provider of Provider'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. Provider 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 this 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 the contract in lieu of the insurance policies and/or bonds required. It will be Provider's responsibility to recommend to the GLO alternative methods of insuring the Contract. Any alternatives proposed by Provider should be accompanied by a detailed explanation regarding Provider's inability to obtain insurance coverage as described in this Contract. The GLO shall be the sole and final judge as to the adequacy of any substitute form of insurance coverage.

**INSURANCE REQUIRED:**

**\$1 MILLION CSL AUTOMOBILE INSURANCE**

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

Insurance Certificates must:

- (a) be submitted to [insurance@GLO.TEXAS.GOV](mailto:insurance@GLO.TEXAS.GOV)
- (b) **prominently display "GLO Contract No. 24-003-007-E255"** and
- (c) Name the General Land Office as an additional insured.

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

**REQUIRED FORM OF CERTIFICATE FOLLOWS THIS PAGE**



Contract No. \*\*\*\*\*

DATE (MM/DD/YYYY)

# CERTIFICATE OF LIABILITY INSURANCE

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

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

PRODUCER	<b>Required form of Insurance</b>	CONTACT NAME:	
		PHONE (A/C, No, Ext):	FAX (A/C, No):
		E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	
			NAIC #
INSURED		INSURER A :	
		INSURER B :	
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

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

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

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

<b>CERTIFICATE HOLDER</b>	<b>CANCELLATION</b>
	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE



**ATTACHMENT C**  
**GLO NOTICE TO PROCEED**  
**APPRAISAL ASSIGNMENT**

**GLO CONTRACT #: 24-003-007-E255**

**SPECIAL PROJECT#:**

**VIA Email to:**

**ATTENTION:**

Upon receipt of this Notice, (“Provider”), is authorized to begin performing the services described in GLO Contract No. 24-003-007-E255 and Appraisal Assignment of Special Project Number: \_\_\_\_\_ on or after (Date).

**TASK AND DELIVERABLES**

Each appraisal authorized pursuant to this Notice is described on the Appraisal/Inspection Request (“AIR”), survey plat, and contract for purchase, attached hereto and incorporated herein for all purposes. Provider shall perform professional appraisal services in the estimation of the current market value of the property legally described as:

Provider may commence work on the Project on or after (Date) and shall complete the Project, including delivery of all completed reports and invoices, on or before (Date) (the “Performance Period”). Provider shall deliver completed reports and invoices via electronic mail to [appraisal.services@glo.texas.gov](mailto:appraisal.services@glo.texas.gov) and invoices only to [vendorinvoices@glo.texas.gov](mailto:vendorinvoices@glo.texas.gov). All invoices, reimbursement documents, and deliverables must display Appraisal Assignment for Special Project Number and Contract No. \_\_\_\_\_

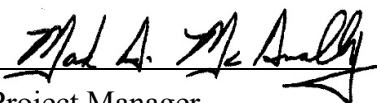
**TERMINATION AND AMENDMENT**

The GLO may terminate, halt, or defer all or any portion of the work authorized pursuant to this Notice at any time during the Performance Period. If such an event occurs, Provider must follow all directions included in the GLO’s notice to terminate, halt, or defer the work.

Extensions of Performance Period may only be approved by the GLO in writing and shall be coordinated with the following GLO’s Project Manager: Mark McAnally, (512) 968-2661.

**COMPENSATION**

The total compensation due to Provider for services performed pursuant to the Appraisal Assignment associated with this Notice to Proceed shall not exceed.

Signed:   
Project Manager  
Appraisal Services  
Texas General Land Office

Signed: \_\_\_\_\_