



**CONSTRUCTION SERVICES CONTRACT
GLO CONTRACT No. 24-007-000-D908**

THE TEXAS GENERAL LAND OFFICE (“GLO”) AND VETERANS LAND BOARD (collectively with GLO, the “Board”) and EMERSON CONSTRUCTION COMPANY, INC., Texas Identification Number (TIN) **17420714127** (“Contractor”), each a “Party” and collectively “the Parties,” enter into the following contract for construction services (the “Contract”) pursuant to applicable provisions of: Texas Government Code, Title 10, Subtitles D and F; 2 CFR Part 200.

I. DEFINITIONS, INTERPRETIVE PROVISIONS, AND PROJECT DESCRIPTION

1.01 DEFINITIONS

“[Administrative and Audit Regulations](#)” means all applicable statutes, regulations, and other laws governing administration or audit of this Contract, which may include Title 2, Part 200, Code of Federal Regulations and Chapter 321 and Title 10, Subtitles D and F of the Texas Government Code.

“[Amendment](#)” means a written agreement, executed by the Parties’ authorized representatives, that documents changes to the Contract.

“[Attachment](#)” means documents, terms, conditions, or additional information attached to this Contract after the execution page or incorporated by reference herein.

“[Board](#)” means the Texas General Land Office and The Texas Veterans Land Board and its officers, employees, and designees, acting in their official capacities.

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

“[Comptroller](#)” means the Texas Comptroller of Public Accounts.

“[Contract](#)” and “[Contract Documents](#)” means this entire document, its Attachments and Amendments, and documents expressly incorporated by reference herein.

“[Federal Assurances](#)” means Standard Form 424B (for non-construction projects) or Standard Form 424D (for construction projects) prescribed by the U.S. Office of Management and Budget for use by agencies awarding or administering federal grants to assure compliance with statutory requirements for grant programs, attached hereto as **Attachment D**.

“[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,” approved by the U.S. Office of Management and Budget for use by agencies awarding or administering federal grants, attached hereto as **Attachment D**.

“[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 terms and conditions attached hereto as Attachment A that Contractor affirms and agrees to by executing this Contract.

“HSP” means historically underutilized business subcontracting plan, as described by Chapter 2161 of the Texas Government Code.

“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 and all applications and worldwide registration of such, schematics, industrial models, inventions, know-how, trade secrets, computer software programs, intangible proprietary information, other commercially valuable products of the human intellect, and all federal, state, or international registrations or applications for any of the foregoing.

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

“Notice to Proceed,” or “NTP,” means the written document the Board issues to Contractor establishing the date on which Contractor may begin work under this Contract.

“Project” means the services described in **Section 1.03** of this Contract.

“Project Manager” means the Board representative responsible for the day-to-day management of the Project and the direction of Board staff and independent contractors performing work relating thereto.

“Project Manual” means the Construction Documents, specifications, drawings, Supplementary General Conditions, Special Conditions, and other documents and information prepared by the Board and/or Gilpin Engineering, Co., incorporated herein by reference for all purposes, that describe and govern construction of the Project.

“Prompt Pay Act” means Chapter 2251 of the Texas Government Code.

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

“Solicitation” means GLO RFP_X0023388-LP (including any attachments and addenda), which is incorporated herein by reference for all purposes in its entirety.

“Solicitation Response” means Contractor’s full and complete response to the Solicitation (including any attachments and addenda). The Solicitation Response is incorporated herein by reference for all purposes in its entirety.

“Travel Regulations” means all applicable statutes, regulations, laws, and Comptroller guidance related to reimbursement for Contractor’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.

“Uniform General Conditions” and “UGCs” means the 2015 Edition of the Texas Facilities Commission’s “Uniform General Conditions for Construction Contracts” and all Supplemental General Conditions thereto published or adopted by the Texas Facilities Commission. The Uniform General Conditions are incorporated herein by reference for all purposes.

“USC” means the United States Code, the official compilation and codification of the general and permanent federal statutes of the United States.

1.02 INTERPRETIVE PROVISIONS

- (a) The meaning of a defined term applies to its singular and plural forms. Terms not defined in this Contract that are defined in the Uniform General Conditions shall have the meaning assigned in the Uniform General Conditions.
- (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 word “including” means “including, without limitation.”
- (d) Unless otherwise expressly provided, a reference to a contract includes subsequent amendments and other modifications thereto 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 by the enacting authority.
- (e) The captions and headings of this Contract are for convenience of reference only and shall not affect 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 Board action by way of consent, approval, or waiver is deemed modified by the phrase “in its sole discretion.” Notwithstanding the preceding, the Board shall not unreasonably withhold or delay any such consent, approval, or waiver.
- (h) Time is of the essence in this Contract.
- (i) Conflicts between this Contract, its Attachments, and applicable law shall be resolved in the following order of precedence: first, all applicable federal, state, or local laws, rules, and regulations; then the signed Contract, then Attachments to the Contract in this order: **Attachment C**, **Attachment D**, **Attachment A**, Project Manual, Uniform General Conditions, **Attachment B**, the Solicitation, and the Solicitation Response

1.03 PROJECT

- (a) Contractor shall perform construction services for the installation of 3,130 Crypts and 1,250 Columbaria Niches and site work to include grading and drainage improvements, landscaping and irrigation at the Coastal Bend State Veterans Cemetery located in Corpus Christi, Texas (the “Project”) as described in the Project Manual and Construction Documents prepared by Gilpin Engineering Co.
- (b) Contractor must perform the Project in accordance with: this Contract and all Attachments, including the Project Manual, the UGCs, the Solicitation, and the Solicitation Response; and all applicable federal, state, and local laws, ordinances, and regulations.

II. TERM

2.01 CONTRACT TIME, NOTICE TO PROCEED, LIQUIDATED DAMAGES

- (a) This Contract is effective as of the date executed by the last Party (the “Effective Date”) and shall continue in force and effect until the expiration of all warranty periods described in the Uniform General Conditions or other Contract Document. Contractor shall achieve Substantial Completion within **558 days for the Project** (the “Contract Time”), commencing on the date specified in the Board’s written NTP.
- (b) This Contract is effective for the term specified herein. Any services Contractor performs before the Effective Date or after the Contract’s termination or expiration are performed at Contractor’s sole risk and the Board may choose not to compensate Contractor for such services.
- (c) Notwithstanding the Effective Date of this Contract, Contractor must not incur charges or begin work before the date indicated on the Board’s written Notice to Proceed (NTP). The Board may deliver the NTP to Contractor by email or fax. Any services Contractor performs or costs Contractor incurs before the date established in the NTP or after the Contract’s termination or expiration are performed at Contractor’s sole risk and the Board may choose not to compensate Contractor for such services.
- (d) **Liquidated Damages: If Contractor fails to achieve Substantial Completion of the Project within the Contract Time, Contractor shall be liable to the Board for liquidated damages of \$500.00 per day until the Contractor achieves Substantial Completion of the Project. The Parties agree that: the Board’s damages for Contractor’s failure to perform its obligations under this Contract are impossible or difficult to estimate; and the amount of liquidated damages specified herein is a reasonable forecast of just compensation and is not a penalty.**

2.02 TERMINATION

The Board may terminate this Contract in accordance with the UGCs. Upon receipt of a termination notice, Contractor must immediately take all actions specified in the UGCs in the event of Contract termination and incur no further expense related to this Contract. Early termination shall be subject to the equitable settlement of the Parties’ interests accrued up to the date of termination.

III. CONSIDERATION

3.01 COMPENSATION

The total amount payable under this Contract shall not exceed **\$8,085,000.00**. This amount includes Contractor’s Base Bid of **\$7,614,000.00**, additive alternate number 1 bid of **\$109,000.00**, additive alternate number 2 bid of **\$103,000.00**, additive alternate number 3 bid of **\$41,000.00**, additive alternate number 4 bid of **\$156,000.00**, additive alternate number 5 bid of **\$62,000.00**, and the Total Owner Allowances for the Project for furnishing all the materials, supplies, machinery, equipment, tools, labor, superintendence, insurance, bonds, and all other costs, accessories, fees, materials, and services necessary to complete the Project in accordance with the Contract.

3.02 TRAVEL EXPENSES

- (a) The Board will not reimburse Contractor for travel expenses of any kind without prior written Board approval. The Board will only reimburse travel expenses

directly attributable to Contractor's performance of 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 Contract amount authorized herein and upon specific, prior, written approval by the Board, 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 Contract.
- (c) The limits for reimbursements are the rates established or adopted by the Comptroller, as outlined in the Travel Regulations. **Contractor understands and acknowledges that any travel-expense reimbursement by the Board is not a per diem. The Board will only reimburse actual, allowable expenses in accordance with the Travel Regulations. Contractor must submit itemized receipts to support any request for travel-expense reimbursement.**

3.03 INVOICES

Invoices/Applications for Payment must:

- (a) be submitted to vendorinvoices@glo.texas.gov
- (b) be supported by documentation (including itemized receipts) that, in the judgment of the Board, allows for full substantiation of the costs incurred;
- (c) meet all requirements specified in the UGCs; and
- (d) **prominently display GLO Contract Number 24-007-000-D908.**

3.04 PAYMENT

The Prompt Pay Act generally applies to payments to Contractor. **However, the Prompt Pay Act does not apply if Contractor does not send invoices that comply with this Contract to vendorinvoices@glo.texas.gov.** If Contractor does not submit invoices in strict accordance with the instructions in this Contract, payment of invoices may be significantly delayed. The Board will not pay interest, fees, or other penalties for late payments resulting from Contractor's failure to submit invoices in strict accordance with the instructions in this Contract.

3.05 RETAINAGE

Pursuant to the Uniform General Conditions, the Board will withhold five percent (5%) of each Application for Payment to ensure performance under this Contract.

IV. PERFORMANCE, AFFIRMATIONS, AND ASSURANCES

4.01 PERFORMANCE WARRANTY

- (a) Contractor warrants that it will perform all services under this Contract in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.
- (b) Contractor warrants that all services it performs under this Contract will meet or exceed the standards of Contractor's trade, profession, or industry; meet or exceed the specifications set forth in the Attachments; and be fit for ordinary use, of good quality, and with no material defects.
- (c) If Contractor supplies goods or performs services that do not meet specifications, fails to deliver goods or complete services timely, or fails to perform its

obligations under this Contract, the Board may require Contractor, at its sole expense, to:

- (i) repair or replace goods and reperform services that do not meet specifications,
 - (ii) refund payment for goods or services that do not meet specifications and accept the return of such goods, and
 - (iii) take necessary action to ensure that future goods delivered and services performed meet specifications and conform to the Contract.
- (d) The warranties and remedies specified in this section are in addition to any warranties and remedies specified in the UGCs.

4.02 GENERAL AFFIRMATIONS

Contractor certifies it has reviewed the **General Affirmations in Attachment A** and that Contractor is in compliance with all applicable requirements contained therein. Contractor affirms and agrees to all conditions contained in **Attachment A**.

4.03 FEDERAL CONTRACT PROVISIONS

- (a) Contractor certifies it has reviewed the **Federal Contract Provisions Required Under 2 CFR 200 in Attachment C** and that Contractor is in compliance with all applicable requirements contained therein. Contractor affirms and agrees to all applicable provisions contained in **Attachment C**.
- (b) Contractor shall comply with applicable provisions of 38 CFR Part 59 regarding grants to states for construction or acquisition of state homes.
- (c) Contractor shall comply with all applicable statutes, regulations, executive orders (E.O.s), Office of Management and Budget (OMB) circulars, provisions of the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (codified at 2 CFR Part 200) (OMB Uniform Guidance), provisions of the Department of Commerce Financial Assistance Standard Terms and Conditions, and any other terms and conditions incorporated into the Department of Commerce financial assistance award funding this Contract.
- (d) Contractor must inform its employees in writing of the rights and remedies provided under 41 USC § 4712, in the predominant native language of the workforce.
- (e) Contractor is encouraged to enforce on-the-job seat belt policies and programs when operating company-owned, rented, or personally owned vehicles.
- (f) Contractor may not issue a subcontract of any part of this Contract to any agency or employee of the United States Department of Commerce or to any other Federal employee, department, agency, or instrumentality, without the advance prior written approval of the United States Department of Commerce Grants Officer overseeing the award funding this Contract.
- (g) Contractor must comply with the provisions of the Drug-Free Workplace Act of 1988 (41 USC § 8102) and U.S. Department of Commerce implementing regulations published at 2 CFR Part 1329 (Government wide Requirements for Drug-Free Workplace - Financial Assistance), which require that the Contractor take certain actions to provide a drug-free workplace.

- (h) Contractor shall ensure the Project complies with applicable provisions of Public Law 117-58, the “Build America, Buy America Act.” If applicable, Contractor shall ensure: (1) all iron and steel used in the Project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; (2) all manufactured products used in the Project are produced in the United States—this means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States (cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives are not “construction materials” for purposes of this requirement). The requirements of this section only apply to articles, materials, and supplies that are consumed in, incorporated into, or affixed to the Project. The requirements of this section do not apply to: tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the Project; or equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the Project, but are not an integral part of the structure or permanently affixed to the Project.

4.04 FEDERAL ASSURANCE AND CERTIFICATIONS

Contractor certifies it has reviewed the Federal Assurances and Federal Certifications in **Attachment D** and that Contractor is in compliance with all the requirements contained therein. Contractor certifies that it is in compliance with any other applicable federal laws, rules, or regulations pertaining to this Contract.

V. STATE FUNDING

5.01 CONTRACT FUNDING

- (a) This Contract shall not be construed as creating any debt on behalf of the State of Texas or the Board in violation of Article III, Section 49, of the Texas Constitution. The Board’s obligations hereunder are subject to the availability of state funds and/or federal funds, if applicable. If adequate funds are not appropriated or become unavailable, the Board may terminate this Contract and/or any applicable Work Order(s). 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 Contractor for damages under this Contract may not exceed the amount of payment due and owing Contractor or the amount of funds appropriated for payment but not yet paid to Contractor. **NOTHING IN THIS PROVISION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE BOARD OR THE STATE OF TEXAS.**

5.02 RECAPTURE OF FUNDS

The Board may recapture payments, including those for any unapproved expenditures, that it makes to Contractor that exceed the maximum allowable rates; are not allowed under applicable laws, rules, or regulations; or are otherwise inconsistent with this Contract.

Contractor must refund such recaptured payments within 30 days after the Board issues notice of recapture to Contractor.

5.03 OVERPAYMENT

Contractor shall be liable to the Board for any costs disallowed pursuant to financial and/or compliance audit(s) of funds received under this Contract. Contractor shall reimburse such disallowed costs from funds other than those that Contractor received under this Contract. Contractor must refund disallowed costs and overpayments of funds received under this Contract to the Board within 30 days after the Board issues notice of overpayment to Contractor.

VI. OWNERSHIP AND INTELLECTUAL PROPERTY

6.01 OWNERSHIP AND INTELLECTUAL PROPERTY

- (a) The Board shall own, and Contractor hereby irrevocably assigns to the Board, all ownership rights, title, and interest in and to all Intellectual Property acquired or developed by Contractor 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 Contractor under this Contract. The Board 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. Contractor 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 Contractor 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, Contractor hereby irrevocably assigns to the Board 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) Contractor must give the Board and the State of Texas, as well as any person designated by the Board or the State of Texas, all assistance and execute documents required to perfect the rights granted to the Board herein, without any charge or expense beyond the stated amount payable to Contractor for the services authorized under this Contract.

6.02 PUBLICATION

Reports, publications, presentations, and all other materials produced by Contractor with funding provided in whole or in part under this Contract must carry on the front cover or title page of such items appropriate acknowledgement of financial or other support by the Board as applicable and, if applicable, all federal entities providing funds or other support for the Project in accordance with applicable federal regulations.

VII. MISCELLANEOUS PROVISIONS

7.01 INSURANCE

For the duration of this Contract, Contractor must acquire and maintain insurance and bonds with financially sound and reputable insurers and bonding companies licensed by the Texas Department of Insurance in the type, amount, and form specified in the UGCs, Project Manual, and other Contract Documents. Contractor must submit to the Board certificates of insurance, bond certificates that substantially conform to those attached hereto as **Attachment B**, and other documents necessary to establish to the Board's satisfaction that Contractor carries the types and amounts of insurance and bonds specified in this Contract. If the insurance or bonding requirements change or the Board determines any insurance policy or bond does not comply with the terms of this Contract, Contractor must secure such additional policies, coverage, or bond that the Board may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Contractor must submit renewal certificates to the Board evidencing continuity of coverage.

7.02 TAXES, WORKERS' COMPENSATION, AND UNEMPLOYMENT INSURANCE

- (a) Contractor shall be solely liable and responsible for payment of Contractor's and Contractor's employees' taxes of whatever kind, arising out of the execution or performance of the Contract. Contractor must comply with all state and federal laws—including laws regarding wages, taxes, insurance, and workers' compensation—that apply to Contractor or its employees. The Board and the State of Texas shall not be liable to Contractor or its officers, agents, employees, representatives, contractors, assignees, designees, or others for the payment of taxes or the provision of unemployment insurance, workers' compensation, or any benefit available to a state employee or employee of another governmental entity.
- (b) Contractor shall indemnify, defend, and hold harmless the State of Texas, the Board, 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 and any purchase orders issued under the Contract. Contractor shall be liable to pay all costs of defense, including attorneys' fees. Contractor must coordinate its defense with the Board and the Office of the Texas Attorney General or other Board legal counsel if the Board is a named defendant in any lawsuit arising out of the execution or performance of the Contract. Contractor may not agree to the settlement of any such lawsuit or other claim without first obtaining the written consent of the Board and, if applicable, the Office of the Attorney General or other Board legal counsel. The Parties must furnish timely written notice to each other of any action, claim, demand, or suit described herein.

7.03 LEGAL OBLIGATIONS

For the duration of this Contract, Contractor must procure and maintain any license, authorization, insurance policy, waiver, permit, qualification, or certification that a federal, state, county, or city statute, ordinance, law, or regulation requires Contractor to hold to provide the goods or services required by this Contract. Contractor must pay all taxes, assessments, fees, premiums, permit fees, and license fees required by law. Contractor must pay any such government obligations not paid by its Subcontractors during performance of this Contract.

7.04 INDEMNITY

Contractor shall indemnify, defend, and hold harmless the State of Texas, the Board, and their officers, agents, employees, representatives, contractors, assignees, and designees from any liability, actions, claims, demands, damage, or suits and all related costs, attorney fees, and expenses arising out of, or resulting from any acts or omissions of Contractor or its agents, employees, Subcontractors, order fulfillers, or Subcontractors' suppliers in the execution or performance of the Contract and any purchase orders issued under the Contract. Contractor must coordinate its defense with the Board and the Office of the Texas Attorney General or other Board legal counsel if the Board is a named defendant in any lawsuit arising out of the execution or performance of the Contract. Contractor may not agree to settle any such lawsuit without the concurrence of the Office of the Texas Attorney General or other Board legal counsel. The Parties must furnish timely written notice to each other of any action, claim, demand, or suit described herein.

7.05 INTELLECTUAL PROPERTY INFRINGEMENT

- (a) Contractor shall indemnify, defend, and hold harmless the State of Texas, the Board, 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 infringement of any United States patent, copyright, trade or service mark, or any other intellectual or intangible property right that occurs in the execution or performance of the Contract and any purchase orders issued under the Contract. Contractor shall be liable to pay all costs of defense, including attorney fees. Contractor must coordinate its defense with the Board and the Office of the Texas Attorney General or other Board legal counsel if the Board is a named defendant in any lawsuit arising out of the execution or performance of the Contract. Contractor may not agree to settle any such lawsuit without the concurrence of the Board and, if applicable, the Office of the Texas Attorney General or other Board legal counsel. The Parties must furnish timely written notice to each other of any action, claim, demand, or suit described herein.
- (b) If Contractor becomes aware of an actual or potential claim of Intellectual Property infringement caused by or resulting from Contractor's performance of this Contract or the Board provides Contractor with notice of such claim, Contractor must, at Contractor's sole expense: (i) procure for the Board the right to continue to use the affected portion of the product or service or (ii) modify or replace the affected portion of the product or service with a functionally equivalent or superior product or service so that the Board's use is non-infringing.

7.06 ASSIGNMENT AND SUBCONTRACTS

Contractor shall not assign, transfer, or delegate any rights, obligations, or duties under this Contract without the prior written consent of the Board. 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 Contractor may subcontract with others for some or all of the services to be performed. In any approved subcontracts, Contractor must legally bind such Subcontractor to perform and make such Subcontractor subject to all applicable duties, requirements, and obligations of Contractor as specified in this Contract. Nothing in this Contract shall be construed to relieve Contractor of the responsibility for ensuring that the goods delivered and/or the services performed by Contractor and/or any of its Subcontractors comply with all the terms and provisions of this Contract. Contractor will provide written notification to the Board of any such

Subcontractor performing fifteen percent (15%) or more of the work under this Contract. Such notification must include the name and Texas Identification Number of Subcontractor, the task(s) being performed, and the number of Subcontractor employees expected to work on the task.

7.07 HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS)

Contractor must notify the Board of HUB Subcontractors performing under this Contract through the submission of an HSP to the Board for approval. During the term of the Contract, Contractor must submit monthly compliance reports (Prime Contractor Progress Assessment Report) to HUB@glo.texas.gov detailing any HUB Subcontractor participation. Contractor must submit proposed modifications to its HSP to the Board for prior approval through an HSP Change Order. Contractor may not modify its HSP without the Board's prior written approval. If Contractor modifies its HSP without the Board's prior written approval, the Board may initiate remedial action as provided in Chapter 2161 of the Texas Government Code.

7.08 RELATIONSHIP OF THE PARTIES

Contractor is associated with the Board only for the purposes and to the extent specified in this Contract. Contractor 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 Contractor or any other party. Contractor shall be solely responsible for, and the Board shall have no obligation with respect to: withholding of income taxes, FICA, or any other taxes or fees; industrial or workers' compensation insurance coverage; accumulation of vacation leave or sick leave; or unemployment compensation coverage provided by the State.

7.09 COMPLIANCE WITH OTHER LAWS

In its performance of this Contract, Contractor must comply with all applicable federal, state, and local laws, statutes, ordinances, and regulations. Contractor is deemed to know of and understand all applicable laws, statutes, ordinances, and regulations, including Title 10, Chapter 2253 of the Texas Government Code relating to Payment Bonds and Performance Bonds.

7.10 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:

Board

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

Contractor

Emerson Construction Company, Inc.
4502 Twin City Blvd.
Temple, Texas 76502
Attention: Chuck Emerson or Other Authorized Signatory

Notice given in any other manner shall be deemed effective only upon receipt by the Party to be notified. Either Party may change its address for notice by written notice to the other Party as herein provided.

7.11 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.

7.12 FORCE MAJEURE

Except with respect to the obligation of payments under this Contract, if either of the Board, 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 Board (collectively referred to as a “Force Majeure”), then, while so prevented, the Board’s obligation to comply with such covenant shall be suspended, and the Board shall not be liable for damages for failure to comply with such covenant. In any such event, the Board must promptly notify Contractor of the Force Majeure event in Board writing, and, if possible, such notice must set forth the extent and duration thereof. The Board 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 Board may terminate this Contract immediately upon written notification to Contractor.

7.13 ENTIRE CONTRACT AND MODIFICATION

This Contract, its Attachments, its Amendments, and any purchase order 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 made in connection with the subject matter hereof. Any additional or conflicting terms in any Attachment, Amendment, or purchase order shall be harmonized with this Contract to the extent possible. Except as provided herein, this Contract may be amended only by a mutual, written agreement executed by authorized representatives of the Parties.

7.14 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 one and the same Contract.

7.15 DISPUTE RESOLUTION

Except as otherwise provided by statute, rule, or regulation, Contractor must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve any dispute arising under the Contract. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE BOARD OR THE STATE OF TEXAS.**

7.16 GOVERNING LAW, VENUE, AND SOVEREIGN IMMUNITY

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 a specific venue is otherwise identified in a statute that directly names or otherwise identifies its applicability to the Board. Contractor irrevocably waives any objection—including any objection to personal jurisdiction—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 THE CONTRACT SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE BOARD OR THE STATE OF TEXAS.**

7.17 INSPECTION AND AUDIT

- (a) Contractor shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the Board, the Texas State Auditor's Office, the United States Government, and/or their authorized representatives sufficient information to determine Contractor's compliance with this Contract and all applicable state, federal, and local laws, rules, regulations, and statutes.
- (b) All records related to the Contract, including records of Contractor and its Subcontractors, are subject to the Administrative and Audit Regulations.
- (c) State agencies authorized to audit and inspect Contractor and its records, Subcontractors, and Subcontractors' records include the Board, the Board's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office, the Texas Comptroller of Public Accounts, and their authorized designees. With regard to any federal funding, federal agencies authorized to audit and inspect Contractor and its records, Subcontractors, and Subcontractors' records include any relevant federal agency, the Office of the Comptroller General of the United States, the Government Accountability Office, the Office of Inspector General, and their authorized designees.

7.18 RECORDS RETENTION

- (a) All records relevant to federally-funded work performed under this Contract shall be retained for a period subsequent to the final closeout of the federal grant(s) applicable to the work, in accordance with federal regulations. **The Board will notify Contractor of the date upon which local records may be destroyed, and Contractor shall retain all records related to this Contract until the destruction date determined by the Board.**
- (b) Except as specified in (a) above, each Party shall retain in its records this Contract and all documents related to this Contract. Except as specified in (a) above, and 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.

7.19 CONFIDENTIALITY

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

information that Contractor or the Board is otherwise required to keep confidential by this Contract. Contractor must not advertise that it is doing business with the Board, 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 Board.

7.20 PUBLIC RECORDS

The Board shall post this Contract to the GLO's website. Contractor understands that the Board will comply with the Texas Public Information Act (Texas Government Code Chapter 552, the "PIA"), as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas (the "Attorney General"). Information, documentation, and other material in connection with this Contract may be subject to public disclosure pursuant to the PIA. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the Board or the State of Texas pursuant to the Contract, and not otherwise excepted from disclosure under the PIA, available to the Board 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 Board or the State of Texas. By failing to mark any information that Contractor believes to be excepted from disclosure as "confidential" or a "trade secret," Contractor waives any and all claims it may make against the Board for releasing such information without prior notice to Contractor. The Attorney General will ultimately determine whether any information may be withheld from release under the PIA. Contractor shall notify the GLO's Office of General Counsel within twenty-four (24) hours of receipt of any third-party written requests for information and forward a copy of said written requests to PIALegal@glo.texas.gov. If a request for information was not written, Contractor shall forward the third party's contact information to the above-designated e-mail address.

7.21 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; interpretive provisions; consideration; warranties; General Affirmations, Federal Contract Provisions Required Under 2 CFR 200, Federal Assurances, and Federal Certifications; state funding, prohibition on debts created on behalf of the State of Texas and/or the Board, recapture of state funds, and overpayment of state funds; limitation of any Contractor claim for damages to the amount of funds appropriated for payment but not yet paid to Contractor; ownership, Intellectual Property, and copyright; records retention requirements; inspection and audit; confidentiality; public records; insurance; taxes; workers' compensation; unemployment insurance; Contractor's obligation to procure and maintain, at its sole expense, all government licenses, authorizations, insurance, waivers, permits, and/or qualifications necessary for Contractor or any Subcontractors to provide the goods or services described in this Contract; indemnification and liability; infringement of Intellectual Property rights; 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. Terms and conditions that, explicitly or by their nature, evidence the Parties' intent that they should survive the termination or expiration of this Contract shall so survive.

SIGNATURE PAGE FOLLOWS

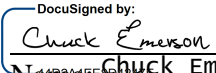
**SIGNATURE PAGE FOR GLO CONTRACT NO. 24-007-000-D908
SERVICES CONTRACT**

**TEXAS GENERAL LAND OFFICE AND
VETERANS LAND BOARD**

**EMERSON CONSTRUCTION
COMPANY, INC.**

DocuSigned by:


Mark A. Havens,
Chief Clerk

DocuSigned by:


Name: Chuck Emerson
Title: president

Date of execution: 11/3/2023

Date of execution: 11/1/2023

OGC 

PM 

DD 

VLB DD 

SDD 

DGC 

VLB ES 

GC 

DLC 

ATTACHED TO THIS CONTRACT:

ATTACHMENT A – General Affirmations

ATTACHMENT B – Required Performance and Payment Bonds

ATTACHMENT C –Federal Contract Provisions Required Under 2 CFR 200

ATTACHMENT D – Federal Assurances and Federal Certifications

INCORPORATED BY REFERENCE:

PROJECT MANUAL

UNIFORM GENERAL CONDITIONS

SOLICITATION

SOLICITATION RESPONSE

ATTACHMENTS FOLLOW

GENERAL AFFIRMATIONS

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

1. Contractor represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Contractor nor the firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such a firm, corporation, partnership, or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Contract or any solicitation response upon which this Contract is based to any competitor or any other person engaged in the same line of business as Contractor.*
2. Contractor shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from the GLO. Any attempted assignment or delegation in violation of this provision is void and without effect. This provision does not apply to subcontracting.
3. If the Contract is for services, Contractor shall comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts, but for contracts subject to 2 CFR 200, only to the extent such compliance is consistent with 2 CFR 200.319.
4. Under Section 231.006 of the Family Code, the vendor or applicant [Contractor] certifies that the individual or business entity named in this Contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate, in addition to other remedies set out in Section 231.006(f) of the Family Code.*
5. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application. Contractor certifies it has submitted this information to the GLO.*
6. If the Contract is for a “cloud computing service” as defined by Texas Government Code Section 2157.007, then pursuant to Section 2054.0593(d)-(f) of the Texas Government Code, relating to cloud computing state risk and authorization management program, Contractor represents and warrants that it complies with the requirements of the state risk and authorization management program and Contractor agrees that throughout the term of the Contract it shall maintain its certifications and comply with the program requirements in the performance of the Contract.
7. If the Contract is for the purchase or lease of computer equipment, as defined by Texas Health and Safety Code Section 361.952(2), Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code, related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in Title 30 Texas Administrative Code Chapter 328.
8. If the Contract authorizes Contractor to access, transmit, use, or store data for the GLO, then in accordance with Section 2054.138 of the Texas Government Code, Contractor certifies that it will comply with the security controls required under this Contract and will maintain

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

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

9. Contractor represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.
10. Contractor agrees that any payments due under the Contract shall be applied towards any debt or delinquency that is owed by Contractor to the State of Texas.
11. Upon request of the GLO, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.
12. If the Contract is for consulting services governed by Texas Government Code Chapter 2254, Subchapter B, in accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, Contractor certifies that it does not employ an individual who has been employed by the GLO or another agency at any time during the two years preceding the Contractor's submission of its offer to provide consulting services to the GLO or, in the alternative Contractor, in its offer to provide consulting services to the GLO, disclosed the following: (i) the nature of the previous employment with the GLO or other state agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation for the employment at the time of its termination.*
13. If the Contract is not for architecture, engineering, or construction services, then except as otherwise provided by statute, rule, or regulation, Contractor must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve any dispute arising under the Contract. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO OR, IF APPLICABLE, OF GOVERNMENTAL IMMUNITY BY CONTRACTOR.**
14. If the Contract is for architecture, engineering, or construction services, then subject to Texas Government Code Section 2260.002 and Texas Civil Practice and Remedies Code Chapter 114, and except as otherwise provided by statute, rule, or regulation, Contractor shall use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve all disputes arising under this Contract. Except as otherwise provided by statute, rule, or regulation, in accordance with the Texas Civil Practice and Remedies Code, Section 114.005, claims encompassed by Texas Government Code, Section 2260.002(3) and Texas Civil Practice and Remedies Code Section 114.002 shall be governed by the dispute resolution process set forth below in subsections (a)-(d). **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO OR, IF APPLICABLE, OF GOVERNMENTAL IMMUNITY BY CONTRACTOR.**
 - a. Notwithstanding Texas Government Code, Chapter 2260.002(3) and Chapter 114.012 and any other statute or applicable law, if Contractor's claim for breach of contract cannot be resolved by the Parties in the ordinary course of business, Contractor may make a claim against the GLO for breach of contract and the GLO may assert a counterclaim against Contractor as is contemplated by Texas Government Code, Chapter 2260, Subchapter B. In such event, Contractor must provide written notice to the GLO of a claim for breach of the Contract not later than the 180th day after the date of the event giving rise to the claim. The notice must state with particularity: (1) the nature of the

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- alleged breach; (2) the amount Contractor seeks as damages; and (3) the legal theory of recovery.
- b. The chief administrative officer, or if designated in the Contract, another officer of the GLO, shall examine the claim and any counterclaim and negotiate with Contractor in an effort to resolve them. The negotiation must begin no later than the 120th day after the date the claim is received, as is contemplated by Texas Government Code, Chapter 2260, Section 2260.052.
 - c. If the negotiation under paragraph (b) above results in the resolution of some disputed issues by agreement or in a settlement, the Parties shall reduce the agreement or settlement to writing and each Party shall sign the agreement or settlement. A partial settlement or resolution of a claim does not waive a Party's rights under this Contract as to the parts of the claim that are not resolved.
 - d. If a claim is not entirely resolved under paragraph (b) above, on or before the 270th day after the date the claim is filed with the GLO, unless the Parties agree in writing to an extension of time, the Parties may agree to mediate a claim made under this dispute resolution procedure. This dispute resolution procedure is Contractor's sole and exclusive process for seeking a remedy for an alleged breach of contract by the GLO if the Parties are unable to resolve their disputes as described in this section.
 - e. Nothing in the Contract shall be construed as a waiver of the state's or the GLO's sovereign immunity, or, if applicable, the governmental immunity of Contractor. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas or Contractor. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas or, if applicable, of Contractor under this Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies or immunities or be considered as a basis for estoppel. The GLO does not waive any privileges, rights, defenses, or immunities available to it by entering into this Contract or by its conduct, or by the conduct of any representative of the GLO, prior to or subsequent to entering into this Contract. Contractor does not waive any privileges, rights, defenses, or immunities available to it by entering into this Contract or by its conduct, or by the conduct of any representative of the GLO, prior to or subsequent to entering into this Contract.
 - f. Except as otherwise provided by statute, rule, or regulation, compliance with the dispute resolution process provided for in Texas Government Code, Chapter 2260, subchapter B and incorporated by reference in subsection (a)-(d) above is a condition precedent to the Contractor: (1) filing suit pursuant to Chapter 114 of the Civil Practices and Remedies Code; or (2) initiating a contested case hearing pursuant to Subchapter C of Chapter 2260 of the Texas Government Code.
15. If Chapter 2271 of the Texas Government Code applies to this Contract, Contractor verifies that it does not boycott Israel and will not boycott Israel during the term of the Contract.*
16. This Contract is contingent upon the continued availability of lawful appropriations by the Texas Legislature. Contractor understands that all obligations of the GLO under this Contract are subject to the availability of funds. If such funds are not appropriated or become

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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. Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.
18. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of the GLO, (2) a person who at any time during the four years before the effective date of the Contract was the executive head of the GLO, or (3) a person who employs a current or former executive head of the GLO.
19. Contractor represents and warrants that all statements and information prepared and submitted in connection with this Contract are current, complete, true, and accurate. Submitting a false statement or making a material misrepresentation during the performance of this Contract is a material breach of contract and may void the Contract or be grounds for its termination.
20. Pursuant to Section 2155.004(a) of the Texas Government Code, Contractor certifies that neither Contractor nor any person or entity represented by Contractor has received compensation from the GLO to participate in the preparation of the specifications or solicitation on which this Contract is based. Under Section 2155.004(b) of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate. This Section does not prohibit Contractor from providing free technical assistance.*
21. Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.*
22. In accordance with Section 2252.901 of the Texas Government Code, for the categories of contracts listed in that section, Contractor represents and warrants that none of its employees including, but not limited to, those authorized to provide services under the contract, were employees of the GLO during the twelve (12) month period immediately prior to the date of execution of the contract. Solely for professional services contracts as described by Chapter 2254 of the Texas Government Code, Contractor further represents and warrants that if a former employee of the GLO was employed by Contractor within one year of the employee's leaving the GLO, then such employee will not perform services on projects with Contractor that the employee worked on while employed by the GLO.*
23. The Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to any Party.

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24. IF THE CONTRACT IS NOT FOR ARCHITECTURE OR ENGINEERING SERVICES GOVERNED BY TEXAS GOVERNMENT CODE CHAPTER 2254, CONTRACTOR, TO THE EXTENT ALLOWED BY LAW, SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE GLO, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. CONTRACTOR AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.*
25. IF THE CONTRACT IS FOR ARCHITECTURE OR ENGINEERING SERVICES GOVERNED BY TEXAS GOVERNMENT CODE CHAPTER 2254, CONTRACTOR, TO THE EXTENT ALLOWED BY LAW, SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE GLO, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY FEES, AND EXPENSES TO THE EXTENT CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILLFUL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY, AND/OR OTHERWISE RELATED TO CONTRACTOR'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO CONTRACTOR, OR ANY OTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. CONTRACTOR AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.*
26. TO THE EXTENT ALLOWED BY LAW, CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE GLO AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE

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

27. Contractor has disclosed in writing to the GLO all existing or known potential conflicts of interest relative to the performance of the Contract.
28. Sections 2155.006 and 2261.053 of the Texas Government Code prohibit state agencies from accepting a solicitation response or awarding a contract that includes proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.*
29. The person executing this Contract certifies that he/she is duly authorized to execute this Contract on his/her own behalf or on behalf of Contractor and legally empowered to contractually bind Contractor to the terms and conditions of the Contract and related documents.
30. If the Contract is for architectural or engineering services, pursuant to Section 2254.0031 of the Texas Government Code, which incorporates by reference Section 271.904(d) of the Texas Local Government Code, Contractor shall perform services (1) with professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license, and (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.*

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31. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. The acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Contractor shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the Contract and the requirement to cooperate is included in any subcontract it awards. The GLO may unilaterally amend the Contract to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.
32. Contractor certifies that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in the Contract by any state or federal agency.
33. If the Contract is for the purchase or lease of covered television equipment, as defined by Section 361.971(3) of the Texas Health and Safety Code, Contractor certifies its compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code, related to the Television Equipment Recycling Program.
34. Pursuant to Section 572.069 of the Texas Government Code, Contractor certifies it has not employed and will not employ a former state officer or employee who participated in a procurement or contract negotiations for the GLO involving Contractor within two (2) years after the date that the contract is signed or the procurement is terminated or withdrawn. This certification only applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.
35. The GLO shall post this Contract to the GLO's website. Contractor understands that the GLO will comply with the Texas Public Information Act (Texas Government Code Chapter 552, the "PIA"), as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas (the "Attorney General"). Information, documentation, and other material in connection with this Contract may be subject to public disclosure pursuant to the PIA. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the GLO or the State of Texas pursuant to the Contract, and not otherwise excepted from disclosure under the PIA, available to the GLO in portable document file (".pdf") format or any other format agreed upon between the Parties that is accessible by the public at no additional charge to the GLO or the State of Texas. By failing to mark any information that Contractor believes to be excepted from disclosure as "confidential" or a "trade secret," Contractor waives any and all claims it may make against the GLO for releasing such information without prior notice to Contractor. The Attorney General will ultimately determine whether any information may be withheld from release under the PIA. Contractor shall notify the GLO's Office of General Counsel within twenty-four (24) hours of receipt of any third-party written requests for information and forward a copy of said written requests to PIALegal@glo.texas.gov. If a request for information was not written, Contractor shall forward the third party's contact information to the above-designated e-mail address.

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36. The GLO does not tolerate any type of fraud. GLO policy promotes consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Contractor must report any possible fraud, waste, or abuse that occurs in connection with the Contract to the GLO in the manner prescribed by the GLO's website, <http://glo.texas.gov>.
37. If Contractor, in its performance of the Contract, has access to a state computer system or database, Contractor must complete a cybersecurity training program certified under Texas Government Code Section 2054.519, as selected by the GLO. Contractor must complete the cybersecurity training program during the initial term of the Contract and during any renewal period. Contractor must verify in writing to the GLO its completion of the cybersecurity training program.
38. Under Section 2155.0061, Texas Government Code, Contractor certifies that the entity named in this Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.*
39. Contractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded contract.
40. Pursuant to Government Code Section 2274.0102, Contractor certifies that neither it nor its parent company, nor any affiliate of Contractor or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2274.0103, or (2) headquartered in any of those countries.*
41. If Contractor is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Contractor verifies that Contractor does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Contractor does not make that verification, Contractor must notify the GLO and state why the verification is not required.*
42. If Contractor is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Contractor verifies that it (1) does not have a practice, policy, guidance, or directive that discriminates against a "firearm entity" or "firearm trade association" as those terms are defined in Texas Government Code section 2274.001 and (2) will not discriminate during the term of the Contract against a firearm entity or firearm trade association. If Contractor does not make that verification, Contractor must notify the GLO and state why the verification is not required.*
43. If Contractor is a "professional sports team" as defined by Texas Occupations Code Section 2004.002, Contractor will play the United States national anthem at the beginning of each team sporting event held at Contractor's home venue or other venue controlled by Contractor for the event. Failure to comply with this obligation constitutes a default of this Contract, and immediately subjects Contractor to the penalties for default, such as repayment of money received or ineligibility for additional money. In addition, Contractor may be debarred from

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

contracting with the State. The GLO or the Attorney General may strictly enforce this provision.*

44. To the extent Section 552.371 of the Texas Government Code applies to Contractor and the Contract, in accordance with Section 552.372 of the Texas Government Code, Contractor must (a) preserve all contracting information related to the Contract in accordance with the records retention requirements applicable to the GLO for the duration of the Contract, (b) no later than the tenth business day after the date of the GLO's request, provide to the GLO any contracting information related to the Contract that is in Contractor's custody or possession, and (c) on termination or expiration of the Contract, either (i) provide to the GLO at no cost all contracting information related to the Contract that is in Contractor's custody or possession or (ii) preserve the contracting information related to the Contract in accordance with the records retention requirements applicable to the GLO. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552, Government Code, may apply to the Contract and Contractor agrees that the Contract may be terminated if Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.*
45. If the Contract is for consulting services governed by Chapter 2254 of the Texas Government Code, Contractor, upon completion of the Contract, must give the GLO a compilation, in a digital medium agreed to by the Parties, of all documents, films, recordings, or reports Contractor compiled in connection with its performance under the Contract.*
46. If subject to 2 CFR 200.216, Contractor shall not obligate or expend funding provided under this Contract to: (a) procure or obtain; (b) extend or renew a contract to procure or obtain; or (c) enter into a contract to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services, as defined in Public Law 115-232, Section 889, as a substantial or essential component of any system, or as critical technology as part of any system.
47. To the extent Texas Government Code Chapter 2252, Subchapter G applies to the Contract, any iron or steel product Contractor uses in its performance of the Contract that is produced through a manufacturing process, as defined in Section 2252.201(2) of the Texas Government Code, must be produced in the United States.

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

PERFORMANCE 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.

In the event of Principal's failure, as defined by the Contract Documents, to faithfully perform the Contract, Surety(s) will within fifteen (15) days of determination of default, assume full responsibility for completion of said Contract and become entitled to payment of the balance of the Contract amount.

The liabilities, rights, limitations, and remedies concerning this Bond shall be determined in accordance with the provisions of Chapter 2253 of the Texas Government Code, as amended, pursuant to which Bond is executed.

IN WITNESS TO THIS DECLARATION, the said Principal and Surety(s) have signed and sealed this instrument

this _____ day of _____

PRINCIPAL

SURETY

By _____

By _____

Bond Identification No. _____

Address of Attorney-In-Fact

Telephone No. of Attorney-In-Fact

PAYMENT 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

Federal Contract Provisions Required Under 2 CFR 200

To the extent applicable, Emerson Construction Company, Inc. affirms and agrees to the provisions in this Attachment, without exception.

1. Contracting with Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms

If subcontracts are to be let, Emerson Construction Company, Inc. must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include: (1) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises; and (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

2. Preference and Procurement of Materials

- (a) To the extent applicable, Emerson Construction Company, Inc. 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, Emerson Construction Company, Inc. 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.

3. **Clean Air Act and Federal Water Pollution Control Act**

Emerson Construction Company, Inc. must comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 USC 7401–7671q) and the Federal Water Pollution Control Act as amended (33 USC 1251–1387).

4. **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

Emerson Construction Company, Inc. must not:

- (a) Procure or obtain;
- (b) Extend or renew a contract to procure or obtain; or
- (c) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

5. **Contract Work Hours and Safety Standards Act¹**

Emerson Construction Company, Inc. must comply with the Contract Work Hours and Safety Standards Act (40 USC 3701–3708), as supplemented by Department of Labor regulations (29 CFR Part 5). Emerson Construction Company, Inc. must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40

¹ This section applies if the applicable Contract or Work Order is valued in excess of \$100,000.00 and involves the employment of mechanics or laborers.

hours in the work week. Emerson Construction Company, Inc. shall not require any laborer or mechanic to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

6. Equal Opportunity²

(a) During the performance of this Contract, the Emerson Construction Company, Inc. agrees as follows:

- (1) The Emerson Construction Company, Inc. will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Emerson Construction Company, Inc. 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 Emerson Construction Company, Inc. 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 Emerson Construction Company, Inc. will, in all solicitations or advertisements for employees placed by or on behalf of the Emerson Construction Company, Inc., 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 Emerson Construction Company, Inc. 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 Emerson Construction Company, Inc.'s legal duty to furnish information.
- (4) The Emerson Construction Company, Inc. 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 Emerson Construction Company, Inc.'s

² This section applies if the applicable Contract or Work Order is a "federally assisted construction contract" as defined in 41 CFR Part 60-1.3.

commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (5) The Emerson Construction Company, Inc. 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 Emerson Construction Company, Inc. 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 Emerson Construction Company, Inc.'s noncompliance with the nondiscrimination clauses of this Contract or Work Order or with any of the said rules, regulations, or orders, this Contract or Work Order may be canceled, terminated, or suspended in whole or in part and the Emerson Construction Company, Inc. 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 Emerson Construction Company, Inc. 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 Emerson Construction Company, Inc. 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 Emerson Construction Company, Inc. becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Emerson Construction Company, Inc. may request the United States to enter into such litigation to protect the interests of the United States.
- (b) Emerson Construction Company, Inc. must comply with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

7. Davis-Bacon and Copeland "Anti-Kickback" Acts³

³ This section applies if the applicable Contract or Work Order is a construction contract valued in excess of \$2,000.00.

- (a) Emerson Construction Company, Inc. must comply with the Davis–Bacon Act (40 USC 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, Emerson Construction Company, Inc. must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Emerson Construction Company, Inc. must pay wages not less than once a week.
- (b) Emerson Construction Company, Inc. must comply with the Copeland “Anti–Kickback” Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). Emerson Construction Company, Inc. shall not induce, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

8. Suspension and Debarment

Emerson Construction Company, Inc. certifies it is not listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9. Byrd Anti-Lobbying Amendment

Emerson Construction Company, Inc. certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Emerson Construction Company, Inc. must also disclose to the GLO any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

Remainder of Page Intentionally Left Blank

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.

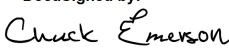
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

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:

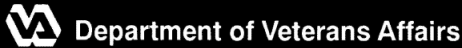
1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will 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.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
20. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL		TITLE	
DocuSigned by: 		president	
APPLICANT ORGANIZATION		DATE SUBMITTED	
Emerson Construction Company, Inc.		11/1/2023	

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

THIS FORM MUST BE EXECUTED



CERTIFICATION REGARDING LOBBYING

The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB number. We anticipate that the time expended by all individuals who must complete this form will average 5 minutes. This includes the time it will take to read instructions, gather the necessary facts and fill out the form. Although completion of this form is required to obtain and retain this Federal grant, failure to complete the form will have no impact on any other benefits to which you may be entitled.

This certification is made in compliance with Section 319 of Public Law 101-121; and pursuant to the Interim Final guidance published as part VII of the December 20, 1989, Federal Register (Pages 57306 through 52332).

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certified, to the best of their 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 any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(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 Forms-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.

SIGNATURE OF CERTIFYING OFFICIAL DocuSigned by: <i>Chuck Emerson</i>	DATE 11/1/2023
NAME AND TITLE OF CERTIFYING OFFICIAL Chuck Emerson president	PROJECT (FAI NUMBER) FAI-TX-22-33
NAME AND ADDRESS OF STATE AGENCY Texas General Land Office 1701 North Congress Avenue Austin, Texas 78701	

Disclosure of Lobbying ActivitiesComplete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)OMB Number: 4040-0013
Expiration Date: 02/28/2025

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

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

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

Federal Agency Form Instructions Form Identifiers	Information
Agency Owner	Grants.gov
Form Name	Disclosure of Lobbying Activities (SF-LLL)
Form Version Number	2.0
OMB Number	4040-0013
OMB Expiration Date	02/28/2025

Field Number	Field Name	Required or Optional	Information
1.	*Type of Federal Action:	Required	Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action. This field is required.
2.	*Status of Federal Action	Required	Identify the status of the covered Federal action. This field is required.
2-a.	a. Bid/Offer/ Application	Check if applicable	Click if the Status of Federal Action is a bid, an offer or an application.
2-b.	b. Initial Award	Check if applicable	Click if the Status of Federal Action is an initial award.
2-c.	c. Post-Award	Check if applicable	Click if the Status of Federal Action is a post-award.
3.0	*Report Type	Required	Identify the appropriate classification of this report.
3-a.	a. Initial filing	Check if applicable	Check if Initial filing.
3-b.	b. Material change	Check if applicable	If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the previously submitted report by this reporting entity for this covered Federal action. This field is required.
	Material Change Year	Conditionally Required	If this is a follow up report caused by a material change to the information previously reported, enter the year in which the change occurred.
	Material Change Quarter	Conditionally Required	If this is a follow up report caused by a material change to the information previously reported, enter the quarter in which the change occurred.
	Material Change Date of Last Report	Conditionally Required	Enter the date of the previously submitted report by this reporting entity for this covered Federal action.
4.	Name and Address of Reporting Entity	Required	Provide the information for Name and Address of Reporting Entity.
	Prime	Check if applicable	Click to designate the organization filing the report as the Prime Federal recipient.
	Subawardee	Check if applicable	Click to designate the organization filing the report as the SubAwardee Federal recipient. Sub-awards include but are not limited to subcontracts, subgrants and contract awards under grants.
	Tier if known:	Optional	Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier.
	Name	Required	Enter the name of reporting entity. This field is required
	Street 1	Required	Enter Street 1 of the reporting entity. This field is required.
	Street 2	Optional	Enter Street 2 of the reporting entity.
	City	Required	Enter City of the reporting entity This field is required.
	State	Required	Enter the state of the reporting entity. This field is required
	ZIP	Required	Enter the ZIP of the reporting entity. This field is required
	Congressional District, if known	Optional	Enter the primary Congressional District of the reporting entity. Enter in the following format: 2 character state abbreviation – 3 characters district number, e.g., CA-005 for California 5th district, CA-012 for California 12th district, NC-103 for North Carolina's 103rd district.
5.	If Reporting Entity in No. 4 is Subawardee, Enter Name and 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.

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