

ARTICLE 6 - INTELLECTUAL PROPERTY

6.01 OWNERSHIP AND USE

- (a) The parties to this Contract expressly agree that all right, title, and interest in, and to, all reports, drafts of reports, or other material, data, drawings, computer programs and codes associated with this Contract, and/or any copyright or other intellectual property rights, and any material or information developed and/or required to be delivered under this Contract shall be jointly owned by the parties with each party having the right to use, reproduce, or publish any or all of such information and other materials without the necessity of obtaining permission from the other party and without expense or charge.

- (b) The GLO and HUD are granted a royalty free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for U.S. Government purposes, all reports, drafts of reports, or other material, data, drawings, computer programs, and codes associated with this Contract, and/or any copyright or other intellectual property rights, and any material or information developed and/or required to be delivered under this Contract.

6.02 NONENDORSEMENT BY STATE AND THE UNITED STATES

Grantee shall not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts, or other publications) that states or implies State of Texas or U.S. Government, or government employee, endorsement of a product, service, or position that the Grantee represents. No release of information relating to this Grant may state or imply that the State of Texas or the U.S. Government approves of Grantee's work products, or considers Grantee's work product to be superior to other products or services.

6.03 APPROVAL OF PUBLICATION AND SPECIFIC DISCLAIMER REQUIRED

Prior to publication, Grantee must submit to the GLO, for HUD approval, any public information releases concerning this Grant Award that refer to HUD or any bureau or employee. The specific text, layout photographs, and so forth, of the proposed release must be submitted with the request for approval. The specific acknowledgements and funding statements that must be included in certain publications funded by the Grantee are set forth in the Contract Documents.

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**ARTICLE 7 - RECORDS, AUDIT, PROPRIETARY INFORMATION,
AND PUBLIC DISCLOSURE**

7.01 BOOKS AND RECORDS

Grantee shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the GLO, the Texas State Auditor's Office, the United States Government, and/or their authorized representatives, sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes including, but not limited to, the Non-Exclusive List of Applicable Laws, Rules, and Regulations provided in Attachment C.

7.02 INSPECTION AND AUDIT

Grantee agrees that all relevant records related to this Contract or any work product produced, including those of its subcontractors, shall be subject at any reasonable time to inspection, examination, review, audit, and copying at any location where such records may be found, with or without notice by the Texas State Auditor's Office, the GLO, its contracted examiners, or the Texas Attorney General's Office. In addition, HUD, the Comptroller General, the General Accounting Office, the Office of Inspector General, or any authorized representative of the U.S Government shall also have this right of inspection.

The GLO reserves the right to perform periodic on-site monitoring of Grantee's compliance with the terms and conditions of this Contract, assurance of non-duplication of beneficiaries and of the adequacy and timeliness of Grantee's performances under this Contract. After each monitoring visit, the GLO shall provide Grantee with a written report of the findings. If the monitoring report notes deficiencies in Grantee's performances under the terms of this Contract, the monitoring report shall include requirements for the timely correction of such deficiencies by Grantee. Failure by Grantee to take action specified in the monitoring report may be cause for suspension or termination of this Contract.

Grantee understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Grantee further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. **GRANTEE SHALL ENSURE THAT ALL SUBCONTRACTS AWARDED REFLECT THE REQUIREMENTS OF THIS SECTION 7.02, AND THE REQUIREMENT TO COOPERATE.**

Grantee will be deemed to have read and have knowledge of all applicable federal, state, and local laws, regulations, and rules, including, but not limited to those identified in Attachment C, governing audit requirements pertaining to the Project.

7.03 GRANTEE SELF-AUDIT AND TARGETED AUDITS

(a) Grantee Self-Audit

Grantee, on approval of the GLO and/or HUD may conduct an annual financial and compliance audit of funds received and performances rendered under this



Contract. Grantee may utilize funds budgeted under this Contract to pay for that portion of the cost of such audit services properly allocable to the activities funded by the GLO under this Contract, provided however that the GLO shall not make payment for the cost of such audit services until the GLO has received from Grantee a satisfactory audit report and invoice, as determined by the GLO. The invoice submitted for reimbursement should clearly show the percentage of cost relative to the total cost of the audit services. Therefore, Grantee shall submit an invoice showing the total cost of the audit and the corresponding prorated charge per funding source. If applicable, an explanation shall be submitted with the reimbursement request, explaining why the percentage of audit fees exceeds the prorated amount allowable.

(b) Targeted Audits

In addition, the GLO shall have the right at any time to perform, or to instruct the performance of, an annual program and/or fiscal audit, or to conduct a special or targeted audit of any aspect of the operation of Grantee, using an auditor of the GLO's choice. Grantee shall maintain such financial records and other records as may be prescribed by the GLO or by applicable federal and state laws, rules, and regulations. These records shall be made available during the term of this Contract and the subsequent period for examination, transcription, and audit.

7.04 PERIOD OF RETENTION

All records relevant to this Contract shall be retained for a period subsequent to the final closeout of the overall State of Texas CDBG-DR grant program, in accordance with federal regulations. **The GLO will notify all Program participants of the date upon which local records may be destroyed.**

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ARTICLE 8 - MISCELLANEOUS PROVISIONS

8.01 LEGAL OBLIGATIONS

Grantee shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification, or certification required by statute, ordinance, law, or regulation to be held by Grantee to provide the goods or services required by this Contract. Grantee will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. Grantee shall not commence work on the Project until it has obtained the requisite licenses and/or permits, if applicable. **COPIES OF SUCH LICENSES AND PERMITS SHALL BE INCLUDED AS A PART OF THE MONTHLY REPORT FOR THE PERIOD DURING WHICH THEY ARE OBTAINED.**

8.02 INDEMNITY

AS GOVERNMENTAL ENTITIES AND REQUIRED UNDER THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, EACH PARTY UNDERSTANDS THAT THEY ARE LIABLE FOR ANY PERSONAL INJURIES, PROPERTY DAMAGE, OR DEATH RESULTING FROM THE ACTS OR OMISSIONS OF SUCH PARTY. IN THE EVENT THAT THE GLO IS NAMED AS A PARTY DEFENDANT IN ANY LITIGATION ARISING OUT OF ALLEGATIONS OF PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE RESULTING FROM THE ACTS OR OMISSIONS OF GRANTEE, AND FOR WHICH THE GLO IS LIABLE, IF AT ALL, ONLY THROUGH THE VICARIOUS LIABILITY OF GRANTEE, THEN, IN SUCH EVENT, GRANTEE AGREES THAT IT WILL PAY, ON BEHALF OF THE GLO, ALL COSTS AND EXPENSES OF LITIGATION (INCLUDING ANY COURT COSTS, REASONABLE ATTORNEYS' FEES, FEES OF ATTORNEYS APPROVED BY THE OFFICE OF THE TEXAS ATTORNEY GENERAL) AS WELL AS ALL AMOUNTS PAID IN SETTLEMENT OF ANY CLAIM, ACTION, OR SUIT, INCLUDING JUDGMENT OR VERDICT, ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT. IN THE EVENT THAT GRANTEE IS NAMED AS A PARTY DEFENDANT IN ANY LITIGATION SEEKING ANY DAMAGES FOR ANY PROPERTY DAMAGE, PERSONAL INJURY, OR DEATH RESULTING OUT OF THE GLO'S ACTIONS OR OMISSIONS, AND GRANTEE'S SOLE LIABILITY, IF ANY, IS ONLY VICARIOUSLY THROUGH THE GLO, THEN, IN SUCH EVENT, THE GLO AGREES TO PAY ANY AND ALL CLAIMS, DEMANDS, OR LOSSES, INCLUDING EXPENSES OF LITIGATION (INCLUDING REASONABLE ATTORNEYS' FEES AND COURT COSTS) INCURRED BY GRANTEE, INCLUDING ANY VERDICTS OR JUDGMENTS OR AMOUNTS PAID IN SETTLEMENT OF ANY CLAIM ARISING OUT OF, OR IN CONNECTION WITH THIS CONTRACT. ANY ATTORNEYS RETAINED BY GRANTEE TO REPRESENT ANY INTEREST OF THE GLO MUST BE APPROVED BY THE GLO AND BY THE OFFICE OF THE TEXAS ATTORNEY GENERAL. ANY ATTORNEYS RETAINED BY THE GLO TO REPRESENT THE INTEREST OF GRANTEE MUST BE APPROVED BY GRANTEE.

8.03 INSURANCE AND BOND REQUIREMENTS

- (a) Unless Grantee is authorized pursuant to Chapter 2259 of the Texas Government Code, entitled "Self-Insurance by Governmental Units," to self-insure, Grantee shall carry insurance for the duration of this Contract in types and amounts necessary and appropriate for the Project.



- (b) Grantee shall require all contractors, subcontractors, vendors, service providers, or any other person or entity performing work described in **Attachment A** to carry insurance for the duration of the Project in the types and amounts customarily carried by a person or entity providing such goods or services. Any person or entity required to obtain insurance under this Section must also be required to complete and file the declaration pages from the insurance policies with Grantee whenever a previously identified policy period expires during the term of Grantee's contract with the person or entity, as proof of continuing coverage. Grantee's contract with any such person or entity shall clearly state that acceptance of the insurance policy declaration pages by the Grantee shall not relieve or decrease the liability of the person or entity. **Persons or entities shall be required to update all expired policies prior to Grantee's acceptance of an invoice for monthly payment from such parties.**
- (c) Grantee shall require performance and payment bonds to the extent they are required under Chapter 2257 of the Texas Government Code.
- (d) **Grantee shall require, on all construction projects, that any person or entity required to provide Federal Construction Assurances shall timely complete SF-424D, entitled "Assurances – Construction Programs," and Grantee shall maintain such documentation.**

8.04 ASSIGNMENT AND SUBCONTRACTS

Grantee shall not convey any grant obligations or duties under this Contract without the prior written consent of the GLO. Notwithstanding this provision, it is mutually understood and agreed that Grantee may subcontract with others for some or all of the services to be performed. In any approved subcontracts, Grantee shall legally bind such subcontractor to perform and make such subcontractor subject to all the duties, requirements, and obligations of Grantee as specified in this Contract. Nothing in this Contract shall be construed to relieve Grantee of the responsibility for ensuring that the goods delivered and/or the services rendered by Grantee and/or any of its subcontractors comply with all the terms and provisions of this Contract.

8.05 PROCUREMENT

Grantee must follow all federal, state, and local procurement procedures and laws applicable to this Project, and must confirm that no vendor is debarred from receiving state or federal funds at each of the following web addresses:

The Texas Comptroller's Vendor Performance Program at:

http://www.window.state.tx.us/procurement/prog/vendor_performance;

and the Federal General Services Administration's Excluded Parties List System at:

<https://www.epls.gov/>.

8.06 PURCHASES AND EQUIPMENT

Grantee shall not seek reimbursement for any Equipment or computer software not included as a reimbursable item in **Attachment B**. Any purchase of equipment or



computer software shall be made in accordance with all applicable laws, regulations, and rules including, but not limited to those listed in **Attachment C**. Title and possession of any Equipment or computer software will remain the property of Grantee unless and until transferred to the GLO, upon written request of the GLO. Grantee shall furnish, with its final request for reimbursement, a list of all Equipment and computer software purchased with grant funds under the Contract, including the name of the manufacturer, the model number, and the serial number. The disposition of any Equipment or computer software shall be in accordance with all applicable laws, regulations, and rules, including but not limited to those listed in **Attachment C**.

8.07 COMMUNICATION WITH THIRD PARTIES

The GLO and the authorities named in **ARTICLE 7**, above, shall have the right to initiate communications with any subcontractor, and may request access to any books, documents, papers, and records of a subcontractor which are directly pertinent to this grant. Such communications may be required to conduct audits and examinations and gather additional information as provided in **ARTICLE 7** herein.

8.08 RELATIONSHIP OF THE PARTIES

Grantee is associated with the GLO only for the purposes and to the extent specified in this Contract and, with respect to Grantee's performance pursuant to this Contract, Grantee 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 shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create for the GLO any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Grantee or any other party.

8.09 COMPLIANCE WITH OTHER LAWS

In the performance of this Contract, Grantee shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including, but not limited to, those listed in **Attachments C, D, E, and F**. Grantee shall make itself familiar with and at all times shall observe and comply with all federal, state, and local laws, ordinances, and regulations that in any manner affect performance under this Contract. **Grantee will be deemed to have knowledge of these laws and regulations and be deemed to understand them.**

In addition, the GLO and Grantee mutually certify to that each party is in compliance with Notice of Allocations and Common Application and Reporting Waivers Granted to and Alternative Requirements for Community Development Block Grant (CDBG) Disaster Recovery Grantees Under 2008 Supplemental CDBG Appropriations 74 Fed. Reg. 7244-7255 (2009).

8.10 CITIZEN PARTICIPATION

- (a)** Grantee must have written procedures to respond to written complaints within fifteen (15) business days of receipt of such complaint. Citizens must be made aware of the location and the days and hours the location is open for business so they may obtain a copy of these written procedures.

