



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, JUNE 16, 2022 AT 01:00 PM
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN STREET
BREHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags - City Manager Carolyn Miller**
- 3. Proclamations**
 - ♦ National Garden Week**
- 4. Citizens Comments**

CONSENT AGENDA

- 5. Statutory Consent Agenda**

The Statutory Consent Agenda includes non-controversial and routine items that Council may act on with one single vote. A councilmember may pull any item from the Consent Agenda in order that the Council discuss and act upon it individually as part of the Regular Agenda.

 - 5-a. Approve the Minutes from the June 2, 2022 Regular City Council Meeting**

5-b. Approve Ordinance No. O-22-011 on Its Second Reading Amending Appendix A - 'Zoning' of the Code of Ordinances of the City of Brenham for an Amendment to the City of Brenham's Official Zoning Map to Change the Zoning District From a Manufactured Home Residential Use District (R-3) to a Commercial, Research, and Technology Use District (B-2) on Approximately 1.00-Acre of Land Currently Addressed as 151 FM 109, Being Further Described as Tract 81 of the John Carrington Survey, Abstract No. 120 in Brenham, Washington County, Texas (Case No. P-22-014)

5-c. Approve a Noise Variance from Outreach Ministry for a Community Outreach Event to be Held on July 2, 2022 at Fireman's Park from 2:00 P.M. to 10:00 P.M.

WORK SESSION

- 6. Discussion and Presentation on Possible Amendments to Chapter 17, Offenses and Miscellaneous Provisions, of the Code of Ordinances and Associated Changes to the Zoning Ordinance**
- 7. Discussion and Presentation on the Main Street Advisory Board's Recommended Revisions to the City of Brenham Downtown Parklet Manual**

REGULAR SESSION

- 8. Discuss and Possibly Act Upon Resolution No. R-22-020 Adopting the City of Brenham Downtown Parklet Manual**
- 9. Discuss and Possibly Act Upon the Renewal of City of Brenham Group Health Plan with TML Health Benefits Pool and Establishment of Funding Rates for the Plan Year Beginning October 1, 2022 through September 30, 2023 and Authorize the Mayor to Execute Any Necessary Documentation**
- 10. Discuss and Possibly Act Upon Contract No. 22-082-023-D556 Between the City of Brenham and the Texas General Land Office Related to the Community Development Block Grant Mitigation Program Infrastructure Projects Non-Research & Development Mitigation Funding and Authorize the Mayor to Execute Any Necessary Documentation**
- 11. Discuss and Possibly Act Upon a Vocational Work Contract Between the City of Brenham and Texas Health and Human Services Commission on Behalf of the Brenham State Supported Living Center for Document Shredding and Litter Management Services and Authorize the Mayor to Execute Any Necessary Documentation**

12. Administrative/Elected Officials Report

Administrative/Elected Officials Reports: Reports from City Officials or City staff regarding items of community interest, including expression of thanks, congratulations or condolences; information regarding holiday schedules; honorary or salutory recognitions of public officials, public employees or other citizens; reminders about upcoming events organized or sponsored by the City; information regarding social, ceremonial, or community events organized or sponsored by a non-City entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of people in the City that have arisen after the posting of the agenda.

Adjourn

Executive Sessions: The City Council for the City of Brenham reserves the right to convene into executive session at any time during the course of this meeting to discuss any of the matters listed, as authorized by Texas Government Code, Chapter 551, including but not limited to §551.071 - Consultation with Attorney, §551.072 - Real Property, §551.073 - Prospective Gifts, §551.074 - Personnel Matters, §551.076 - Security Devices, §551.086 - Utility Competitive Matters, and §551.087 - Economic Development Negotiation

CERTIFICATION

I certify that a copy of the June 16, 2022 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan St., Brenham, TX on June 13, 2022 at 11:00 A.M.

Jeana Bellinger, TRMC, CMC

City Secretary

Disability Access Statement: This meeting is wheelchair accessible. The accessible entrance is located at the Vulcan Street entrance to the City Administration Building. Accessible parking spaces are located adjoining the entrance. Auxiliary aids and services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours before the meeting) by calling (979) 337-7567 for assistance.

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2022 at _____ AM PM.

Signature

Title

PROCLAMATION

WHEREAS, the gardeners of the United States produce the food which feeds our people and permits us to export our abundance to other countries; and our gardens also yield herbs, foliage and flowers which add beauty, fragrance and nutrition to our lives; and

WHEREAS, the Brenham Bluebonnet Garden Club was organized and federated in 1949 and has an active membership of 30 women who are dedicated to numerous civic beautification and community service projects; and

WHEREAS, the object of the Bluebonnet Garden Club is to create interest in the cultivation and artistic arrangement of flowers to cultivate beautiful gardens; to promote civic improvement and conservation in our community and state; and to stimulate friendliness among gardeners; and

WHEREAS, the Bluebonnet Garden Club is committed to providing outreach therapy to motivate senior citizens in the joys and pleasure of using nature's gifts in various holiday crafts and continue their interest in gardening; and it is right that the Mayor, City Council and residents of Brenham join together to honor the members of the Bluebonnet Garden Club for their dedication and service;

NOW, THEREFORE I, Milton Y. Tate Jr., Mayor of the City of Brenham, do hereby proclaim June 5-11, 2022 as

NATIONAL GARDEN WEEK.

In Witness, Whereof, I have set my hand and affixed the Seal of Brenham.

Milton Y. Tate Jr., Mayor
City of Brenham

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on Thursday, June 2, 2022 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members Present:

Mayor Milton Y. Tate, Jr.
Mayor Pro Tem Clint Kolby
Councilmember Shannan Canales
Councilmember Leah Cook
Councilmember Atwood Kenjura
Councilmember Adonna Saunders
Councilmember Albert Wright

Members Absent:

None

City of Brenham Staff present:

City Manager Carolyn Miller, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Director of Public Works Dane Rau, Director of Development Services Stephanie Doland, Human Resources Director Susan Nienstedt, Deputy City Secretary Alyssa Faykus, Legal and Legislative Services Manager Karen Stack, Community Services Specialist Crystal Locke, Parks Superintendent Casey Redman, Purchasing and Central Fleet Supervisor Kyle Branham, Strategic Budget Officer Tim McRoberts, Sgt. Steven Eilert, Captain Dant Lange, and City Planner Shauna Laauwe.

Citizens/Others Present:

Glenwood Viera Jr.

Media Present:

Jason May, Brenham Banner-Press; and Josh Blaschke, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Atwood Kenjura**
- 3. Service Recognitions**
 - **Chad Westerfeld – Maintenance, 15 Years**

4. Citizens Comments

No comments received

CONSENT AGENDA

5. Statutory Consent Agenda

- 5-a. Approve the Minutes from the May 16, 2022 Workshop Budget Meeting and May 19, 2022 Regular Meeting**
- 5-b. Approve Ordinance No. O-22-010 on Its Second Reading Adopting a Final Redistricting Plan**
- 5-c. Approve a Noise Variance for The City of Brenham for the Summer Sip and Art Walk to be Held on June 11, 2022 in Downtown Brenham from 3:00 P.M. to 7:00 P.M.**
- 5-d. Approve a Noise Variance for The City of Brenham for Hot Nights Cool Tunes to be Held on July 9, 16, 23, and 30, 2022 at the Courthouse Square from 7:00 P.M. to 10:00 P.M.**
- 5-e. Approve a Noise Variance Request from the Washington County Historical Juneteenth Association for the Juneteenth Freedom of Slavery Celebration on June 17, 2022 from 5:00 P.M. to 10:00 P.M. and June 18, 2022 from 10:00 A.M. to 10:00 P.M. at Fireman's Park**
- 5-f. Approve a Noise Variance from Melvin Preston for the Palestine Family Reunion to be Held on June 18, 2022 at Henderson Park from 12:00 P.M. to 10:00 P.M.**
- 5-g. Approve a Noise Variance from Margaret Moore for a Birthday Party to be Held on June 18, 2022 at 701 Parkview Street from 12:00 P.M. to 11:00 P.M.**
- 5-h. Approve a Noise Variance from Ballad of the Bird Dog for a Grand Opening Event to be Held at 100 E. Alamo Street on June 25, 2022 from 9:00 A.M to 6:00 P.M.**

A motion was made by Councilmember Wright and seconded by Councilmember Saunders to approve the Statutory Consent Agenda Items 5.a. thru 5.h. as presented.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

PUBLIC HEARING AND ASSOCIATED ACTION ITEM

- 6. Public Hearing, Discussion and Possible Action on an Ordinance on Its First Reading Amending Appendix A – ‘Zoning’ of the Code of Ordinances of the City of Brenham for an Amendment to the City of Brenham’s Official Zoning Map to Change the Zoning District From a Manufactured Home Residential Use District (R-3) to a Commercial, Research and Technology Use District (B-2) on Approximately 1.0 Acre of Land Currently Addressed as 151 FM 109, Being Further Described as Tract 81 of the John Carrington Survey, Abstract No. 120 in Brenham, Washington County, Texas (Case No. P-22-014)**

Mayor Tate opened the Public Hearing.

City Planner Shauna Laauwe presented this item. Laauwe said the subject tract is a 1.0-acre property located on the south side of FM 109 and approximately 425 feet west of State Highway 36 South. It is currently zoned as R-3, Manufactured Home Residential Use District. The property contains two dilapidated mobile homes and several accessory structures. The applicant is in the process of purchasing the property and wishes to redevelop the site with warehouse storage and office use.

In order to build the proposed changes, the property needs to be zoned as B-2, Commercial Research and Technology Use District. Laauwe said this request fits the Future Land Use Plan and the Planning and Zoning Commission unanimously recommended approval of the request at its May 23, 2022 meeting. Laauwe received one written comment in favor of the zoning change.

There were no citizen comments.

Mayor Tate closed the Public Hearing.

A motion was made by Councilmember Canales and seconded by Councilmember Saunders to approve an ordinance on its first reading amending Appendix A – ‘Zoning’ of the Code of Ordinances of the City of Brenham for an amendment to the City of Brenham’s Official Zoning Map to change the zoning district from a Manufactured Home Residential Use District (R-3) to a Commercial, Research and Technology Use District (B-2) on approximately 1.0 acre of land currently addressed as 151 FM 109, being further described as Tract 81 of the John Carrington Survey, Abstract No. 120 in Brenham, Washington County, Texas (Case No. P-22-014).

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

REGULAR SESSION

7. Discuss and Possibly Act Upon Resolution No. R-22-021 Authorizing the Execution of an Agreement with the Texas Department of Transportation for the Temporary Closure of State Right-of-Way in Connection with the 2022 Downtown Summer Concert Series, Hot Nights, Cool Tunes, to be Held on July 9, 16, 23, and 30, 2022 and Authorize the Mayor to Execute Any Necessary Documentation

Recreation Specialist Crystal Locke presented this item. Locke said the City of Brenham's annual Summer Concert Series, Hot Nights, Cool Tunes will be returning July 9, 16, 23, and 30, 2022 featuring a variety of bands and a classic car show. This is a free, public event. There will be one state right-of-way lane closure on Alamo Street to allow for the car show and the stage for the bands. Locke explained that because a portion of the state highway system will be closed, the City must execute an agreement with the Texas Department of Transportation.

Councilmember Kenjura asked Locke if city staff had ever considered moving the concert permanently to the Commerce Street parking lot. Locke said due to the lack of trees in that region of downtown, it would be very hot for concert goers. Changing the location to the Commerce Street parking lot also presents a challenge of where to host the classic car show.

A motion was made by Councilmember Canales and seconded by Councilmember Cook to approve Resolution No. R-22-021 authorizing the execution of an agreement with the Texas Department of Transportation for the temporary closure of state right-of-way in connection with the 2022 Downtown Summer Concert Series, Hot Nights, Cool Tunes, to be held on July 9, 16, 23, and 30, 2022 and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

8. Discuss and Possibly Act Upon a Noise Variance Request from Brenham Outlaws for a Juneteenth Event to be Held on June 18, 2022 at Hattie Mae Flowers Park from 9:00 A.M. to 11:00 P.M. and Authorize the Mayor to Execute Any Necessary Documentation

Legal and Legislative Services Manager Karen Stack presented this item. Stack stated this event was for a trail riding group. The event would be held after the Juneteenth Parade on June 18, 2022 at Hattie Mae Flowers Park until 11:00 P.M. Stack recommended denial of this request for a number of reasons.

The event is scheduled to end after the closing time of the park. City staff is concerned they will get many complaints due to use of amplified sound equipment late into the night. Park staff also had concerns about the limited amount of parking spaces in the park compared to the anticipated size of the event. The last time this event occurred, the participants also parked horse trailers in the street which effected ingress and egress. In the past, participants also parked on the grass which is a hazard to underground irrigation equipment and to the children who run on the grass.

Additionally, Police Department staff had concerns about a history of disturbances and fights where trail riding groups gather. Stack stated the Police Department does not have the resources for crowd control due to the many Juneteenth events being held on the same day.

City Manager Carolyn Miller asked if city staff had offered the group an alternative. Stack said city staff recommended use of the Washington County Expo due to the horse trailers and additional parking it could offer for a large group.

A motion was made by Councilmember Canales and seconded by Mayor Pro Tem Kolby to deny a noise variance request from Brenham Outlaws for a Juneteenth event to be held on June 18, 2022 at Hattie Mae Flowers Park from 9:00 A.M. to 11:00 P.M.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

9. Discuss and Possibly Act Upon Bid No. 22-007 for Type “D” Hot Mix Asphalt and Authorize the Mayor to Execute Any Necessary Documentation

Purchasing and Central Fleet Supervisor Kyle Branham presented this item. Branham said the City Council had approved the termination of its contract with Waller County Asphalt on May 19, 2022 due to the company no longer being able to honor its contract price because of rising costs of asphalt. The City went out for new bids on May 19, 2022 for Type “D” hot mix asphalt. Due to the volatility of the asphalt market, the City requested 6-month, 9-month, and 12-month term pricing. Three bids were received with Waller County Asphalt submitting the lowest bid at \$84.00 a ton delivered and \$75.00 a ton picked up at Waller County Asphalt.

Branham said they chose a 9-month period to get the City through the hot mix asphalt season and will go out for bids once the initial term has been completed to determine current market rates.

A motion was made by Councilmember Canales and seconded by Councilmember Saunders to award Bid No. 22-007 for Type “D” Hot Mix Asphalt to Waller County Asphalt, for a period of 9 months, in the amount of \$84.00 a ton delivered to a job site and \$75.00 a ton if picked up at Waller County Asphalt by City staff and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

10. Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Purchasing Solutions Alliance (PSA) for a Brazos Valley Council of Governments Purchasing Cooperative for Public Agencies and Authorize the Mayor or City Manager to Execute Any Necessary Documentation

Purchasing and Central Fleet Supervisor Kyle Branham presented this item. Branham said Wilton's joined the Brazos Valley Council of Governments Purchasing Solutions Alliance (PSA) which will help the city save money on many different types of office supplies. This will also streamline the process for ordering supplies. The purchasing alliance offers various discounts, such as free shipping and volume rebates.

A motion was made by Councilmember Canales and seconded by Councilmember Cook to approve an interlocal agreement between the City of Brenham and Purchasing Solutions Alliance (PSA) for a Brazos Valley Council of Governments Purchasing Cooperative for Public Agencies and authorize the Mayor or City Manager to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

11. Discuss and Possibly Act Upon the Development, Operations, Funding, and Possible Acquisition of the Barnhill Center at the Historic Simon Theater, Including But Not Limited to the Third Addendum to the Memorandum of Understanding Between the City of Brenham and Brenham Main Street Historic Preservation, Inc., and Authorize the Mayor to Execute Any Necessary Documentation

City Manager Carolyn Miller presented this item. Miller said this is the third addendum to an agreement with Brenham Main Street Historical Preservation, Inc. (BMSHP). Miller explained that in January of 2021, Council approved the second addendum, which continued the reimbursement to BMSHP for quarterly interest on loans encumbering the Barnhill Center. Miller said this third addendum is necessary to continue the interest reimbursements until the City can obtain ownership of the Barnhill. This third addendum authorizes payment in an amount not to exceed \$35,000 to BMSHP for quarterly interest on the existing loans encumbering the Barnhill Center. Miller said she believes this will be the last addendum and the City plans to have a contract executed fully in July to create the legal formation of a corporation and transition ownership of the facility to the City.

A motion was made by Councilmember Kenjura and seconded by Councilmember Saunders to approve the third addendum to the Memorandum of Understanding between the City of Brenham and Brenham Main Street Historic Preservation, Inc. and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

12. Administrative/Elected Officials Report

City Manager Carolyn Miller reported on the following:

- June 11, 2022 is the Summer Sip and Art Walk. Tickets are still available for purchase online.
- The Texas Municipal League Conference is October 4-7, 2022, so the regular City Council meeting will be moved to October 13, 2022 and that will be the only regular Council meeting in October.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

ORDINANCE NO. O-22-011

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES, AND THE OFFICIAL ZONING MAP OF THE CITY OF BRENHAM, BY CHANGING THE ZONING DISTRICT CLASSIFICATION FROM MANUFACTURED HOME RESIDENTIAL USE DISTRICT (R-3) TO A COMMERCIAL, RESEARCH, AND TECHNOLOGY USE DISTRICT (B-2) ON A 1.00 ACRE TRACT OF LAND AS FURTHER DESCRIBED IN THIS ORDINANCE.

WHEREAS, Karen L. Graves and Gaynelle Kay Tulp, property owners of the 1.00 acres of land generally located on south side of FM 109 and approximately 425 feet west of State Highway 36 South and addressed as 151 FM 109, and being further described as Tract 81 of the John Carrington Survey, A-120, in Brenham, Washington County, Texas, (the "Property"), have requested that the Property be rezoned; and

WHEREAS, the City of Brenham has adopted Appendix A – "Zoning" of the City of Brenham Code of Ordinances, as amended, which divides the City of Brenham into various zoning districts; and

WHEREAS, Appendix A – "Zoning" of the City of Brenham Code of Ordinance authorizes the City Council to grant zoning changes by adopting ordinances amending Appendix A for each individual permanent zoning change; and

WHEREAS, at least ten (10) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within two hundred feet of the Property in the manner required by law, the Planning and Zoning Commission held a public hearing on the requested rezoning; and

WHEREAS, this amendment was recommended for approval by the City of Brenham Planning and Zoning Commission in its final report during its regular meeting on May 23, 2022; and

WHEREAS, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested rezoning, the City Council held the public hearing for the requested rezoning and the City Council considered the final report of the Planning & Zoning Commission; and

WHEREAS, the City Council deems it appropriate to grant such proposed change in the zoning district classification of the Property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1. That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham are hereby amended by changing the zoning district classification from a Manufactured Home Residential District (R-3) to Commercial, Research, and Technology Use District (B-2) on approximately 1.00 acres of land addressed as 151 FM 109, and further described as Tract 81 of the John Carrington Survey, A-120, in Brenham, Washington County, Texas, said area of land being further described and depicted on Exhibit "A" and Exhibit "B" attached hereto and incorporated herein for all pertinent purposes.

SECTION 2. This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas.

PASSED and APPROVED on its first reading this the 2nd day of June 2022.

PASSED and APPROVED on its second reading this the 16th day of June 2022.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

Exhibit "A"

BEGINNING at an iron pin in the South line of F.M. Highway #109 at its intersection with the East line of the G.C. & S.F. Railroad;

THENCE with said highway line N. 44 deg. 15' E. 217.87 ft. to an iron pin;

THENCE S. 17 deg. 00' 50" E. 290.80 ft. to an iron pin;

THENCE S. 72 deg. 59' 10" W. 169.67 ft. to an iron pin in the East line of the Railroad Right of Way;

THENCE with said railroad N. 23 deg. 34' W. 187.28 ft. to the point or place of beginning, containing 1.000 acre of land.

As surveyed by Donald R. Muzzy, Registered Public Surveyor, on October 24, 1973.

Exhibit "B"



151 FM 109 Rezoning Request R-3 to B-2



Legend

-  County Parcels
-  City Limits
-  City Parcels



1 inch = 125 feet



Regular City Council
AGENDA ITEM 5-C.

Agenda Item: Approve a Noise Variance from Outreach Ministry for a Community Outreach Event to be Held on July 2, 2022 at Fireman's Park from 2:00 P.M. to 10:00 P.M.

Meeting Type: Regular Meeting-June 16, 2022

Department: Parks and Recreation

Staff Contact: Crystal Locke

SUMMARY STATEMENT:

Outreach Ministry will host a community event on July 2, 2022, at Fireman's Park from 2:00 p.m. to 10:00 p.m. Activities planned include praise and workshop, a guest speaker, and live music. Due to the use of amplified sound, a noise variance is requested.

ATTACHMENTS:

(1) Variance Request

RECOMMENDED ACTION:

Approve a noise variance from Outreach Ministry for a Community Outreach Event to be held on July 2, 2022 at Fireman's Park from 2:00 P.M. to 10:00 P.M.



Noise Variance Request

For: Outreach Ministry

Name of sponsoring organization: Outreach Ministry

Your Contact Information

Name: Minnie Dabera

Phone: 979-551-2895

Email: n/a

Event Details

Event Name: Outreach Ministry

Purpose: Community Outreach

Location: Fireman's Park

Date: 2022-07-02

Time: 2 pm - 10 pm

Setup From: 10 am **To:** 2 pm

Clean up From: 10 pm **To:** 11 pm

Types of activities planned and any additional information specific to this event: Praise and worship, guest speaker, live music

Describe activities at this event that require the variance to the noise ordinance: Live music, musicals instruments,

Will you use sound amplification equipment? Yes

Cleanup Provisions: The event organizer will leave the park in good condition.

Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any court? No

Please identify the offence, State of conviction and penalty imposed:



Regular City Council
AGENDA ITEM 6.

Agenda Item: Discussion and Presentation on Possible Amendments to Chapter 17, Offenses and Miscellaneous Provisions, of the Code of Ordinances and Associated Changes to the Zoning Ordinance

Meeting Type: Regular Meeting-June 16, 2022

Department: Administration

Staff Contact: Karen Stack

SUMMARY STATEMENT:

Please see attached memo.

ATTACHMENTS:

- (1) Memo
- (2) Current Section 17-8 of the Code of Ordinances
- (3) Current Section 11 Zoning Ordinance

RECOMMENDED ACTION:

Discussion only.



To: Mayor and Council

From: Karen Stack, Legal & Legislative Services Manager

Subject: Noise and Zoning Ordinance Revisions

Date: June 16, 2022

I. Background

City staff have been tasked with creating a draft noise ordinance to bring to Council for consideration. The goals are to (1) clarify the noise ordinance and the methodology used in noise measurements, (2) ensure it is consistent with noise provisions in the zoning ordinance, and (3) provide a process for staff-issued noise permits that would eliminate the need for noise variances.

II. Current Ordinances:

Noise Nuisance Ordinance

Section 17-8 of the Brenham Code of Ordinances generally prohibits noise nuisances. It makes it an offense to create any artificial noise that is plainly audible from 50 feet of its source, regardless of whether the source and 50-foot measuring point are on the same property. It does not differentiate between public vs. private property or daytime vs. nighttime. There is no distinction between residential and non-residential areas. The noise ordinance does not address noise from natural sources, except to prohibit the keeping of noisy animals.

The only exception in the noise ordinance is for events at the Dietrich Amphitheater in Hohlt Park. Thus, without Council's approval of a variance to the ordinance, most special events will have a violation of Section 17-8. In addition, there will be many unintentional violations, such as a loud air conditioning unit, car alarms, garbage trucks, road work, etc., even when the noise occurs during the daytime hours in an industrial or commercial zone. There are no exclusions or affirmative defenses for these types of noise.

Zoning Ordinance

Unlike the Noise Ordinance, the Zoning Ordinance has specific decibel limits. These limits are based on zone type (residential, commercial, or industrial) and daytime vs. nighttime. The standards are listed in Sec. 11.02(3):

Table 1. Limiting Sound Levels for Land Use Districts

Land Use	Time	Allowable Exterior Noise Level
Residential (R-1, R-2)	10:00 pm to 7:00 am	50 dB (A)
	7:00 am to 10:00 pm	55 dB (A)
Commercial-Mixed Use (B-1, B-2, B-3)	10:00 pm to 7:00 am	62 dB (A)
	7:00 am to 10:00 pm	62 dB (A)
Industrial (I)	10:00 pm to 7:00 am	85 dB (A)
	7:00 am to 10:00 pm	85 dB (A)

Also unlike the Noise Ordinance, Sec. 11 of the Zoning Ordinance has a list of exemptions, for example, construction, HVAC, parks, and schools.

In addition to these decibel limits, each zone has a list of allowed uses, some of which appear to be designed to supersede the decibel limits. This “hierarchy” is not explicit but implied by the enumerated allowed uses.

III. Conflicts between Section 17-8 and the Zoning Ordinance

When a citizen complains to police about an artificial noise they can hear in their home, there has been a violation of the Section 17-8. The same noise may not be a violation of the Zoning Ordinance, which is generally more permissive. There is no provision in either code as to whether one may supersede the other. Therefore, a noise may be a violation of 17-8 even though it complies with the letter and intent of the Zoning Ordinance.

Further complicating this issue is that the allowed uses for specific zones may not be consistent with the sound limits in the zoning ordinance. For example, in the downtown district, “Amusement and Entertainment” and “Performing Arts Venues” are allowed uses, but the decibel limit in this zone is 62 dB. Live, amplified music will generally produce noise of more than 62 dB from the property line, so this is an apparent conflict. Staff’s position is that music is specifically listed as an allowed use in that zone, and therefore noise limits from Section 17-8 or Sec. 11.02 of the Zoning ordinance are superseded. For purposes of enforcement, the “hierarchy” should be clarified.

Our goal is to make sure that an average citizen can read these provisions, understand how they relate to one another, and know the standards they must adhere to. We also want to ensure police have articulable standards to give to citizens, and that if there is a situation that makes a citation necessary, everyone is clear on what provisions have been violated.

IV. Noise Variances

Our noise ordinance prohibits making artificial noise that is plainly audible 50 feet from its source. The only exception is for events at the Amphitheatre in Hohlt Park. Thus, if a citizen wishes to have a special event that would utilize a DJ, microphone, etc., there is no way for them to avoid a possible citation unless they first come to Council and obtain a temporary variance to the noise ordinance. We were not able to find any other city in Texas that handles special events this way. It is an administrative burden to citizens, Council, and staff. Many people are not aware of this process and come to obtain a permit less than two weeks before their special event, which is usually not enough time to add their request to a Council agenda. Further, because a variance is granted by Council, police cannot revoke it or modify it during the event should exigent circumstances happen (disorderly conduct, etc.). We would like for Chapter 17 to allow staff-issued noise permits for special events.

V. Suggested Edits

Chapter 17:

1. Staff suggest amending Sec. 17-8 to use an objective standard for noise nuisances. Objective standards have the advantage of being easier to enforce. Also, it provides guidance and incentivizes self-regulation.
2. Include decibel limits that are different for day and night.
3. Limits should be applied at the property line (vs. 50 feet from source).
4. Add appropriate exceptions.
5. Add affirmative defense for noise that is the product of an allowed use for the zone in which the activity is occurring.
6. Add affirmative defense for promptly obeying an officer's order to discontinue the noise.
7. Add a provision allowing staff to issue noise permits.

Zoning Ordinance:

1. Update the decibel limits to be consistent with the levels in the new 17-8.
2. Update exceptions to be consistent with the new 17-8.
3. Clarify that allowed uses supersede decibel limits.

CHAPTER 17 – OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. - IN GENERAL

Sec. 17-8. - Noise nuisances.

- (a) *Definitions.* As used in this section, the following terms shall have the respective meanings ascribed in them:

Plainly audible in this section means any sound produced by artificial means, which clearly can be heard at a distance of fifty (50) feet or more when measured by the auditory senses, based on the direct line of sight. Determination of whether a sound is plainly audible shall be made without regard to the discernibility of words or phrases. Bass reverberations may be considered plainly audible.

Sound amplifying device in this section means any radio, tape player, compact disk player, loudspeaker, or other electronic device used for the amplification of sound.

- (b) *Declaration of nuisance, prohibitions.* Any noise of a non-natural or artificial source, of such intensity that is plainly audible from a distance of fifty (50) feet or more from the source is declared a nuisance and is hereafter prohibited.
- (c) *Enumerated acts.* The following acts, among others, are declared to be nuisances in violation of this section, but said enumerations shall not be deemed to be exclusive, to wit:
- (1) The playing of any radio, phonograph or other musical instrument in such a manner or with such volume as to be plainly audible at a distance of fifty (50) feet or more from the source.
 - (2) The operation of a sound amplifying device in a public park or public playground so that the sound is plainly audible at a distance of fifty (50) feet or more from the sound amplifying device.
 - (3) The keeping of any animal or bird which is causing frequent or long-continued noise that disturbs the comfort and repose of any person of ordinary sensibilities within fifty (50) feet of the property line on which the animal or bird resides.
 - (4) This section shall not apply to any person acting on behalf of a government authority or acting pursuant to a valid permit issued by the city. Additionally, this section shall not apply to events authorized by the city which are held at the Dr. Bobbie M. Dietrich Memorial Amphitheater located in Hohlt Park.
- (d) *Test for standards and noises.* Factors to consider: The standards which shall be considered in determining whether a violation of this section exists shall include but shall not be limited to the following:
- (1) The volume of the noise.
 - (2) The intensity of the noise.
 - (3) Whether the nature of the noise is usual or unusual.
 - (4) Whether the origin of the noise is natural or unnatural.
 - (5) The volume and intensity of the background noise, if any.
 - (6) The proximity of the noise to residential sleeping facilities.

- (7) The nature of the area within which the noise emanates.
 - (8) The density of inhabitation of the area within which the noise emanates.
 - (9) The time of the day or night the noise occurs.
 - (10) The duration of the noise.
 - (11) Whether the noise is recurrent, intermittent or constant.
 - (12) Whether the noise is produced by a commercial or noncommercial activity.
- (e) *Violations; penalties.* Any person, firm, or corporation violating subsection (a) or (b) hereof, shall be a violation of a class C misdemeanor and upon conviction shall be fined in an amount not less than one dollar (\$1.00) and not more than five hundred dollars (\$500.00), plus costs.

Sec. 11. Performance standards

(Sec. 11.01) **Compliance required.** No land, structures or uses in any district of the City of Brenham shall create any dangerous, injurious, noxious, or otherwise objectionable fire, noise or vibration, air pollution, odorous matter, fire and explosive hazard material, toxic and noxious matter, vibration, open storage and glare in such an amount as to adversely affect the surrounding area or adjoining premises. In the event of conflict between any of the specific provisions or sections of this ordinance with regulations of the Environmental Protection Agency, the Occupational Health and Safety Administration and the Texas Natural Resource Conservation Commission, then the most restrictive provisions shall be deemed controlling. Permitted uses as set forth in this ordinance shall be undertaken and maintained only upon the condition that they conform to the regulations of this section.

(Sec. 11.02) **Standards.** The following standards shall apply in the various zoning districts as set forth below:

(1) **Noise.** For recurring noise emanating from a facility within the City of Brenham, the allowable noise level shall not exceed that indicated for the type of district in which it is located as shown in the Table 1 below. For the purpose of enforcing these provisions, a measurement shall not be for less than ten (10) minutes nor more than thirty (30) minutes. Measurement shall be made on the property line at the point closest to the activity that is generating the noise which is being evaluated.

(2) The following uses and activities shall be exempt from the noise level regulations herein specified:

- (a) Noises not directly under control of the property user or his invitee;
- (b) Noises emanating from construction and maintenance activities between the hours of 7:00 a.m. and 7:00 p.m. (daylight hours);
- (c) Noises of safety signals, warning devices and emergency pressure relief valves;
- (d) Noise of moving sources such as automobiles, trucks, airplanes and trains that are operating in the public domain.
- (e) Noise of otherwise permitted activities conducted on public parks, playgrounds and public or private schools.
- (f) Noise emanating from air conditioning or refrigeration systems or associated equipment.
- (g) Noise emanating from special events such as business promotional events, parades or civic celebrations that are temporary and otherwise permitted by the City of Brenham.

Table 1. Limiting Sound Levels for Land Use Districts

Land Use	Time	Allowable Exterior Noise Level
Residential (R-1, R-2)	10:00 pm to 7:00 am	50 dB (A)
	7:00 am to 10:00 pm	55 dB (A)
Commercial-Mixed Use (B-1, B-2, B-3)	10:00 pm to 7:00 am	62 dB (A)
	7:00 am to 10:00 pm	62 dB (A)
Industrial (I)	10:00 pm to 7:00 am	85 dB (A)
	7:00 am to 10:00 pm	85 dB (A)

(4) Vibration. No operation or use in any district shall create earthborn vibration when measured at any residential property line within any district which exceeds the limit of displacement set forth in the following table in the frequency ranges specified.

Table 2. Limiting Vibration at Specified Frequency Levels

Frequency Cycles per Second	Displacement in Inches
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and Over	0.0003



Regular City Council
AGENDA ITEM 7.

Agenda Item: Discussion and Presentation on the Main Street Advisory Board's Recommended Revisions to the City of Brenham Downtown Parklet Manual

Meeting Type: Regular Meeting-June 16, 2022

Department: Main Street

Staff Contact: Jennifer Eckermann

SUMMARY STATEMENT:

Included in your packet are Main Street's Final Requested Revisions to the Parklet Manual Table of Concerns and Revisions discussed at the May 5, 2022, City Council Meeting.

I look forward to reviewing these with you and answering any questions you may have.

ATTACHMENTS:

(1) Main Street Board Final Revisions to Parklet Manual

RECOMMENDED ACTION:

No action; discussion only.

Downtown Parklet Manual

Areas of Concern	Suggested Revisions	Main Street Requested Revisions
The use of non-disposable dinnerware being prohibited.	Any downtown business, not just restaurants, will be eligible to sponsor a parklet; therefore, the restriction on types of dinnerware will be removed.	Reference to non-disposable dinnerware will be removed from the original manual. Parklets can only be sponsored by businesses that primarily sell food or beverages.
Better explanation and clarification of the terms “public” parklet and “private” parklet.	1. The “public” or “private” type of parklet will be removed. There will be a \$500 fee for each parklet. 2. All parklets can be reserved by the sponsor during their hours of operation; all other times, the parklet will be open to the public.	1. Support. 2. Support.
How will 96 West’s parklet will be handled in the future if there are fees for other parklets?	Upon renewal of any existing parklet agreements, the \$500 fee will be charged.	Support.
There being no limit to the number of parklets allowed in the downtown area.	There will be a limit of six (6) parklets in the downtown area.	Support.
The number of parking spaces being taken for a parklet.	No more than two (2) parallel spaces and three (3) angled spaces can be taken for a parklet.	Agree to the clarification.
Who would ultimately be responsible for the parklet – the property owner or the business owner?	The application will require signatures of both the sponsor and the property owner if they are not one in the same.	The License Agreement is between the City of Brenham and the business sponsoring the parklet. A completed Parklet Application will include the signature of the property owner who agrees to remove the parklet should the business vacate without removal. The property owner makes no other commitment.

What happens if a sponsoring business vacates the building and the next business would like to keep the parklet?		➤ The city will negotiate a License Agreement with the new sponsor. ➤ A 90-day grace period for property owners to determine if a new tenant would like to sponsor the parklet in place.
The use of amplified sound in a parklet.	Amplified sound will not be allowed – this is in accordance with a current City ordinance.	Support.
Specific advertising requirements in a parklet.	No advertising will be allowed in or on any parklet.	Support.
The use and design of umbrellas.	3. The term “umbrella” will be replaced with “shade structure”. 4. A shade structure could be an umbrella, an awning, a tree, or some other kind of structure to provide shelter from the heat. 5. All shade structures would have to be approved by the Development Services Department. 6. Downtown parklet improvements including the purchase and/or replacement of shade structures, up to \$1,500, would be eligible for funding through the Main Street Economic Impact and Innovation Grant Program.	3. Support. 4. Shade structures will not hide or block the view of downtown buildings or make a parklet less temporary in nature. 5. Support. 6. Remove. The use of program grant funds for projects temporary in nature does not meet a primary program goal of supporting permanent improvements with long-term impact.

Receipt, handling, and processing of parklet applications.	7. The initial round of applications will be processed through the City Secretary's office. 8. For the initial round, there will be a 60-day application period (July 1 thru August 30). 9. The application period will be advertised in the media, pushed out on social media, and put on the City's website. 10. Main Street Board will review all applications received and make a recommendation to a Council Subcommittee before presenting the application(s) to the City Council for consideration. 11. Once an application is approved, the sponsor will have six (6) months to meet with the Development Services Department and begin the parklet project.	7. Support. 8. A one-month application period is recommended, rather than 60 days (July 1 – July 31). 9. Support. 10. Support. 11. Applicants are required to submit a preliminary site plan with the application. It will include dimensions showing the size of the improvement, and elevation views from the sidewalk and street. Once a License Agreement is approved by Council, final plans that have been stamped by an architect, engineer, or landscape architect will be reviewed before a building permit is issued. Once the building permit is issued, the parklet must be completed within 3 months.
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Regular City Council
AGENDA ITEM 8.

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-22-020
Adopting the City of Brenham Downtown Parklet Manual

Meeting Type: Regular Meeting-June 16, 2022

Department: Main Street

Staff Contact: Jennifer Eckermann

SUMMARY STATEMENT:

A copy of the Downtown Parklet Manual is included in your packet and includes revisions discussed during the Work Session.

The plan is to get a copy of the manual into the hands of eligible downtown businesses June 17, 2022, and as recommended, offer an initial 30-day application period beginning July 1, 2022.

The Main Street Board recommends the adoption of the City of Brenham Downtown Parklet Manual.

ATTACHMENTS:

- (1) Resolution R-22-020
- (2) Downtown Parklet Manual

RECOMMENDED ACTION:

Approve Resolution No. R-22-020 adopting of the City of Brenham Downtown Parklet Manual.

RESOLUTION NO. R-22-020

A RESOLUTION OF THE CITY OF BRENHAM, TEXAS ADOPTING A DOWNTOWN PARKLET MANUAL

WHEREAS, the City of Brenham (“City”) is a home-rule municipality located in Washington County, Texas, acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Section 51.001, Texas Local Government Code, authorizes the City Council of the City of Brenham to adopt rules and regulations for the good government, peace, and order of the municipality, and necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, the City Council desires to enter into private-public partnerships for streetscape improvements and the creation of Parklets in Downtown Brenham; and

WHEREAS, Council desires to adopt uniform standards for the design and construction of Parklets near restaurants in Downtown Brenham; and

WHEREAS, the Main Street Advisory Board recommends the adoption of the new Parklet Manual; and

WHEREAS, it is in the best interest of the City of Brenham to accept the recommendation of the Main Street Advisory Board and adopt the Parklet Manual;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS:

- Section 1:** The findings set forth hereinabove are incorporated into the body of this Resolution as if fully set forth herein.
- Section 2:** That Council hereby adopts the Parklet Manual, attached hereto as “Exhibit A,” and incorporated herein for all pertinent purposes.
- Section 3:** That the new Parklet Manual be in full force immediately upon passage and approval and supersede any prior existing policies.

PASSED and APPROVED this 16th day of June 2022.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



Downtown Parklet Manual



MAIN STREET BRENHAM

INTRODUCTION

The City of Brenham has created a downtown parklet initiative that provides a public-private partnership for streetscape improvements in the public realm that are intended to enhance the visitor experience

Parklets convert curbside parking into vibrant community spaces. They contribute to the aesthetics of the streetscape, provide an economical solution to the need for increased public spaces, and provide amenities such as seating and landscaping.

While parklets are funded and maintained by businesses, they provide benefits to the entire community, as well as to visitors and adjacent businesses. Parklets generate community and economic development by attracting more people to downtown where they shop, eat, relax, and experience all Downtown Brenham has to offer.

No more than six (6) total parklets will be allowed in Downtown Brenham.



PARKLET PROCESS OVERVIEW

PERMITTING PROCESS

Step 1: Review the Downtown Brenham Parklet Manual and Eligibility Checklist

Step 2: Complete Building Permit Application and the Parklet Application

The sponsor shall submit an Eligibility Checklist Form, a Building Permit Application and the Parklet Application, along with the required supporting documents listed on the application.

All parklet designs are required to comply with the Parklet Design Standards found in this Parklet Manual.

Step 3: Review and Approval of a Parklet License Agreement

The Parklet Application and Building Permit Application will be reviewed by City staff for completion, and eligibility determined. The applicant will be notified of the determination and a Parklet License Agreement will be sent to the eligible sponsor for review.

Once the sponsor has reviewed the Agreement, a date will be set for City Council consideration.



PARKLET PROCESS OVERVIEW

Step 4: Issuance of Permit and Installation

Once the Parklet License Agreement is approved by City Council, the applicant will supply drawings stamped by an architect, engineer, or landscape architect. Development Services will review and consider the submittal, and issue the Building Permit .

The sponsor, following payment of the Annual Parklet Fee, will have 90 days to complete installation for inspection.

FEES:

Building Permit Fee	TBD based on cost of project
Annual Parklet Fee	\$500



ELIGIBILITY REQUIREMENTS

The requirements include:

- The parklet must be located in the Downtown Brenham Historic Overlay District.
- The parklet will not be located on TxDOT right-of-way (Main and Alamo Streets).
- The parklet is associated with a business that primarily sells food and/or beverages.
- The parklet is located adjacent to the establishment where on-street parking spaces exist and is less than, or equal to, the footprint of the building.
- There is no other parklet on the block (only one is allowed per block face).
- The parklet is within a dedicated parking lane in the right-of-way and will occupy no more than two (2) parallel spaces or three (3) angled spaces.
- The parklet will not impede the flow of drainage.
- The parklet will not impede pedestrian or vehicular traffic.
- The parklet must not be placed in a manner that restricts access to any dumpsters, garbage receptacles, private or public utilities (e.g. electrical poles, streetlights, underground utility access, electrical transformer vaults, etc.) nor be placed over any utility appurtenances, fire hydrants, valves, manholes, meters, etc.
- The parklet will not create a site distance/visibility problem for vehicular traffic.
- The sponsor is in good standing with any required payment with the City of Brenham.

LICENSE AGREEMENT

Each License Agreement is for a period of one year, with 4 years of extensions allowed.

The Annual Parklet Fee may be paid in full for the 5-year length of the Agreement at a 20% discount. There will be no refund if the sponsor does not adhere to the Agreement, and the Parklet is required to be removed.

Only one permit is required; however, if paying annually, each Agreement extension must be requested in writing to Main Street by no later than ten (10) working days prior to the end of each year. Once a written request is received, Main Street will initiate a brief department review to determine if an extension will be issued. A permit extension will be considered if there are no issues or violations. Extensions may be subject to additional requirements and/or restrictions. The permit extension request must be submitted via email to info@downtownbrenham.com

Payment of the Annual Parklet Fee is required prior to extension approvals.

The permit will be null and void if all application and design requirements are not met.

A property owner, if different from the Parklet Sponsor, agrees to remove a parklet if the sponsoring business vacates the property. The owner has a 90-day grace period to determine if a new tenant would like to sponsor the parklet in place, and is responsible for maintenance during this time.



DESIGN STANDARDS

A parklet typically consists of a platform, protective enclosure (protective elements such as planters and railings), and amenities (e.g. benches, chairs, tables, lighting, shade structures, landscaping). All approved parklets are considered temporary installations. A parklet design that requires a poured concrete platform or drilling into the surface of the street, curb or sidewalk is prohibited. Installation must not damage the street, curb, sidewalk, or any aspect of the public right-of-way.

1. Parklet Platform Standards:

- The design of the platform must accommodate the crown of the road to provide a level walking surface for the parklet.
- The parklet must be ADA accessible.
- Parklet designs must maintain a visual connection to the street and not obstruct seated sight-lines to existing businesses and signage.
- The platform may not have more than a ½" gap from the curb to permit easy access and to avoid tripping hazards.
- The platform must not impede the flow of curbside stormwater drainage.
- Design considerations should include measures to prevent debris buildup beneath the deck.

2. Protective Enclosure of the Parklet:

The parklet must have a continuous protective enclosure along each side, with the exception of the side adjacent to the curb (three sides total). This enclosure will serve as a buffer to users and make the parklet visible to traffic. Enclosures can consist of planters, railings, and/or other visible protective edgings as approved by City staff in the application process. The enclosure should include architectural elements and must be between three (3) feet and four (4) feet in height, measured from the walking surface of the parklet. While not visible from the sidewalk, the parklet's back is highly visible from the street.

DESIGN STANDARDS

3. Protective (buffering) Elements Between the Parklet and Adjacent Parking Spaces:

The parklet must be buffered from vehicles parking on adjacent parking spaces using wheel stops or planter boxes, which must be placed 4 feet from the parklet. Planter boxes should have a height of 3 feet. At no point should plants in the planter boxes obstruct visibility to moving traffic and parking cars. These wheel stops or planter boxes act as bollards to protect against parking maneuvers.

4. Shade Structures and Elements

Any shade structures or elements added to a parklet must meet City of Brenham codes and ordinances, and will not make a parklet less temporary.

5. Projections Beyond the Parklet:

No element of the parklet is permitted to extend beyond the footprint of the parklet.

6. Advertising:

No advertising or commercial signage is allowed in parklets, per the City of Brenham Sign Ordinance.

7. Durability of Parklet Materials:

The parklet should be durable and designed to be outdoors and able to withstand wind stress.

8. ADA Requirements:

Parklets shall be constructed and/or installed to conform to the applicable provisions, rules, regulations, and guidelines of the Americans with Disabilities Act (ADA) and Texas Accessibility Standards (TAS). Parklets may not occupy a designated ADA-accessible parking space.

9. Power and Water Connections:

The design of the parklet must not require power and/or water connections.

PARKLET SPONSOR RESPONSIBILITIES

Parklet sponsors are responsible for the following:

- Keep the parklet well-maintained and in good repair with daily cleaning.
- Keep the parklet free of debris, grime, and graffiti.
- Water and maintain all parklet vegetation.
- Provide pest control as needed.
- Amplified music is prohibited in parklets, per the City of Brenham Noise Ordinance.



PARKLET ELIGIBILITY CHECKLIST FORM

PLEASE COMPLETE THIS FORM AND SUBMIT WITH YOUR APPLICATION.

CONTACT INFORMATION

Name of persons and business sponsoring the parklet: _____

Phone number and email of parklet sponsor: _____

Name and address of business: _____

Phone number of business (establishment) associated with parklet: _____

A Preliminary Site Plan is required, as described in the Application Form. The information is needed to determine the eligibility of the proposal. The standards set forth below are minimum standards and eligibility is determined based on the site meeting all requirements as verified by City staff. Place a checkmark in the box next to each standard to indicate the site is in full compliance.

- ☐ The parklet must be located in the Downtown Brenham Historic Overlay District
- ☐ The parklet is not located on TxDOT right-of-way (Main and Alamo Streets)
- ☐ The sponsoring business primarily sells food or beverages.
- ☐ The parklet is located adjacent to the establishment where on-street parking spaces exist and is less than or equal to the footprint of the building
- ☐ There is no parklet on the block (only one is allowed per block face)
- ☐ The parklet is within a dedicated parking lane in the right-of-way and will occupy no more than two parallel spaces or three angled spaces

PARKLET ELIGIBILITY CHECKLIST FORM

- ☐ The parklet will not impede the flow of drainage
- ☐ The parklet will not impede pedestrian or vehicular traffic
- ☐ The parklet must not be placed in a manner that restricts access to any dumpsters, garbage receptacles, private or public utilities (e.g. electrical poles, street lights, underground utility access, electrical transformer vaults, etc.) nor be placed over any utility appurtenances, fire hydrants, valves, manholes, meters, etc.
- ☐ The parklet will not create a sight distance/visibility problem for vehicular traffic
- ☐ The sponsor is in good standing with any required payment with the City of Brenham

PARKLET APPLICATION FORM

Submittal Instructions: After completing the Parklet Application, email this form with all required supporting documents as attachments to info@downtownbrenham.com. Once the application has been reviewed, and eligibility determined, City staff will email the Parklet License Agreement for the sponsor to review. Once the Parklet License Agreement is approved by City Council, the sponsor will submit stamped drawings and proof of insurance, and will receive emailed instructions on how to obtain the Building Permit from Development Services.

NOTE: Every application will be subject to a determination of completeness. The responsible city official is not required to review an application unless it is complete.

CONTACT INFORMATION

Name of persons and business sponsoring the parklet:

Phone number and email of parklet sponsor:

Name and address of business:

Phone number of business (establishment) associated with parklet:

Name of property owner (if different from above):

Phone number and email of property owner (if different from above):

PARKLET INFORMATION

Number and type (parallel or angled) of parking spaces to be taken for the parklet installation:

Estimated cost of the project: _____

PARKLET APPLICATION FORM

If you will be reserving the parklet during business hours, please let us know when the parklet will be closed from public use: _____

REQUIRED SUPPORTING DOCUMENTS CHECKLIST TO BE SUBMITTED WITH APPLICATION:

- ☐ **Preliminary Site Plan:** The preliminary site plan must include the location of the sponsor's building façade and adjacent sidewalk and street in relation to the parklet; the width and depth, location and material of the parklet protective elements and elevation drawings identifying the parklet design, heights and materials.
- ☐ **Statement of Purpose:** A written statement identifying the purpose of the parklet (e.g. dining, lounging, etc.) and providing parklet installation costs and schedule (number of days it would take to complete the installation once a Building Permit is issued.)
- ☐ **A written description of parklet materials and proposed parklet amenities:** (e.g. chairs, tables, benches, umbrellas, landscaping, etc.)

REQUIRED SUPPORTING DOCUMENTS CHECKLIST TO BE SUBMITTED UPON APPROVAL OF LICENSE AGREEMENT:

- ☐ **Final Site Plan:** Once the License Agreement is approved by City Council, the sponsor must submit a final site plan. It must be computer-generated, drawn to scale, and stamped by a licensed architect, landscape architect, or engineer. The stamped drawing must be submitted before the Building Permit can be considered and issued.
- ☐ **Proof of Liability Insurance:** Workers Compensation and Employers Liability, and General Liability Insurance is required as detailed in the License Agreement. The policy must include the parklet installation and must be kept in full force throughout the full term of the Parklet Agreement, which begins on the date the permit is issued.

PARKLET APPLICATION FORM

PARKLET SPONSOR RESPONSIBILITIES

The parklet sponsor has an obligation to meet the following responsibilities:

- **Maintain insurance required**
- **Pay for all costs associated with the parklet permits, insurance, installation, maintenance, and eventual removal, as well as the repairs to any elements of the right-of-way that may sustain damages due to the installation, use, or removal of the parklet**
- **Regular maintenance of the parklet. Maintenance includes but is not limited to the following:**
 - Daily removal of trash and debris from the parklet
 - Removal of grime and graffiti on the parklet as needed
 - Removal of trash and debris under the parklet, as needed
 - Watering any landscaping
 - Pest control
 - Repairs as needed to restore the parklet to its original state
- **Sound amplification systems in the parklet are prohibited, per City of Brenham Noise Ordinance**
- **No elements or amenities of the parklet are to be stored on the sidewalk or the street**
- **Any material misrepresentation or fraudulent information makes this application null and void.**

Sponsor Signature:

Date:

PARKLET APPLICATION FORM

PROPERTY OWNER RESPONSIBILITY

- Should a Parklet Sponsor with a License Agreement with the City — who leases a building—vacate the property without removing the parklet, the property owner is responsible for removal.
- There is a 90-day grace period for a property owner to determine if a new tenant would like to sponsor the parklet in place. If no tenant is found, or a new tenant is not interested in pursuing a License Agreement, the property owner must remove the parklet within the 90-day period. Within this period, the property owner is responsible for maintenance.

Property Owner Signature:

Date:

Once completed, please send the form as an attachment to:

info@downtownbrenham.com



Regular City Council
AGENDA ITEM 9.

Agenda Item: Discuss and Possibly Act Upon the Renewal of City of Brenham Group Health Plan with TML Health Benefits Pool and Establishment of Funding Rates for the Plan Year Beginning October 1, 2022 through September 30, 2023 and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-June 16, 2022

Department: Human Resources

Staff Contact: Susan Neinstedt

SUMMARY STATEMENT:

This item is being presented to City Council for consideration to approve the Texas Municipal League Health Benefits Pool renewal for group medical benefits for the plan year beginning October 1, 2022 through September 30, 2023.

See attached Memo for additional information and details.

ATTACHMENTS:

(1) Memo from Susan Nienstedt

RECOMMENDED ACTION:

Approve the renewal of the City of Brenham Group Health Plan with TML Health Benefits Pool and establishment of funding rates for the plan year beginning October 1, 2022 through September 30, 2023 and authorize the Mayor to execute any necessary documentation.



MEMORANDUM

To: Mayor and City Council

From: Susan Nienstedt – Director of HR and Risk Management

Subject: Renewal of Full-Funded Group Medical Plan with TML Health Benefits Pool

Date: June 9, 2022

One of the great benefits provided at the City of Brenham is group medical insurance for the employee and dependents if elected. Texas Municipal League (TML) Health Benefits has been our group medical provider for many years and has weathered both increases and decreases in the group medical arena. The TML Health Benefits pool allows for excellent, affordable high-quality benefits at a stable rate. Currently, TML provides health benefits for 523 cities, with over 37,000 covered lives. TML Health Benefits pool can leverage bargaining power with large numbers of cities, employees, and covered lives to secure competitive rates for all pool members. The group medical plan will provide our employees and their dependents a PPO type plan with access to the BlueCross BlueShield of Texas network of doctors and facilities, paying 80% of in-network costs after the deductible is met.

We are recommending the acceptance of the TML Health Benefits Pool renewal with a premium increase of 7%, with no changes in deductible or out-pocket limits. The city invests approximately \$2 million annually for group medical coverage for our employees and their dependents. The group medical benefit stands out as one of our best benefits paying over 90% of the employee coverage and subsidizing a significant portion the dependent costs as well. The premium increase in each tier will be divided equally between the city and the employee. We will continue to fund a Health Reimbursement Arrangement (HRA), which reimburses an employee for a portion of their deductible after it has been met. An employee's individual deductible will remain at \$3,000, and they would be eligible with the HRA to receive reimbursement for \$1,800, essentially leaving the employee with the responsibility of a \$1,200 deductible. Fortunately, a small portion of employees meet the deductible each year.

The renewal will include the same prescription plan and zero cost telehealth and Employee Assistance services as in previous years. Retirees choosing to keep their medical coverage after retiring, will continue to receive the same plan benefits with a \$100 monthly subsidy from the city for retiree only coverage, and \$200 monthly for retiree and dependent coverage. Outlined below are a few of the plan benefits to employees by accepting the TML proposed renewal.

- ✓ Telehealth \$0 copay
- ✓ Employee Assistance Program included at no-cost
- ✓ Primary care \$30 copay
- ✓ Specialty care copay increase to \$60
- ✓ FSA remains an option
- ✓ Out-of-pocket deductible applies to In-network deductible
- ✓ Lab/X-Ray covered at 100% when obtained in office visit
- ✓ ER copay \$500

Proposed Group Medical Plan for 2022-2023

Plan Type	Current Premium	7% Increase Total Premium	Total Increase	Split 50/50 Employee & City
EE Only	\$ 604.64	\$ 646.96	\$ 42.32	\$ 21.16
EE & Spouse	\$ 1,227.38	\$ 1,313.30	\$ 85.92	\$ 42.96
EE & Child(ren)	\$ 1,064.60	\$ 1,139.12	\$ 74.52	\$ 37.26
EE Family	\$ 1,782.02	\$ 1,906.76	\$ 124.74	\$ 62.37

Plan Type	Current Employee Cost	Proposed Employee Cost	Current City Cost	Proposed City Cost	Total Premium	% of Total Premium Paid by COB
EE Only	\$ 32.00	\$ 53.00	\$ 572.64	\$ 593.96	\$ 646.96	92%
EE & Spouse	\$ 319.00	\$ 362.00	\$ 908.38	\$ 951.30	\$ 1,313.30	72%
EE & Child(ren)	\$ 190.00	\$ 228.00	\$ 874.60	\$ 911.12	\$ 1,139.12	80%
EE Family	\$ 432.00	\$ 494.00	\$ 1,350.02	\$ 1,412.76	\$ 1,906.76	74%



Regular City Council
AGENDA ITEM 10.

Agenda Item: Discuss and Possibly Act Upon Contract No. 22-082-023-D556 Between the City of Brenham and the Texas General Land Office Related to the Community Development Block Grant Mitigation Program Infrastructure Projects Non-Research & Development Mitigation Funding and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-June 16, 2022

Department: Public Works

Staff Contact: Dane Rau

SUMMARY STATEMENT:

On October 15, 2020, Council approved submitting a grant application to the Texas General Land Office (GLO) for the Community Development Block Grant-Mitigation (CDBG-MIT) program for the 2016 Flood State Competition. The project consists of major drainage improvements pertaining to the Hog Branch Tributary throughout the City's central area beginning at Market St and ending on E. Alamo St.

The City learned in early Spring that Brenham's application for the Mitigation 2016 State Most Impacted and Distressed (SMID) was approved for funding for \$3,400,594 and would move forward to contracting. The City is responsible for a 1% match commitment of \$34,006 to be allocated to the construction activity. The match is committed by the City of Brenham from the Drainage Utility Fund. Attached is General Land Office Contract No. 22-082-023-D556.

This project aims to perform streambank regrading improvements, removal of debris and vegetation, and embankment protection. The regraded streambanks and streambed will be armored with permanent articulated concrete stabilization measures and equipped with open cells backfilled with soil that allow for native vegetation to be established. A restored streambed will also aid in the City's need for regional detention within the City, as depicted in the 2019 City Comprehensive Plan.

The retention period is three (3) years from the GLO/HUD contract closeout date. Once the contract is executed, the GLO will coordinate a kick-off meeting for all parties involved. Staff will also be working with adjacent property owners to gain easements for construction and access for future needs.

ATTACHMENTS:

(1) GLO Contract No. 22-082-023-D556

RECOMMENDED ACTION:

Approve Contract No. 22-082-023-D556 between the City of Brenham and the Texas General Land Office related to the Community Development Block Grant Mitigation Program Infrastructure Projects Non-Research & Development Mitigation Funding and authorize the Mayor to execute any necessary documentation.



GLO CONTRACT NO. 22-082-023-D556
COMMUNITY DEVELOPMENT BLOCK GRANT
MITIGATION PROGRAM INFRASTRUCTURE PROJECTS
NON-RESEARCH & DEVELOPMENT
MITIGATION FUNDING

The **GENERAL LAND OFFICE** (the “GLO”), a Texas state agency, and **CITY OF BRENHAM**, Texas Identification Number (TIN) **17460004041** (“Subrecipient”), each a “Party” and collectively the “Parties,” enter into this Subrecipient agreement (the “Contract”) under the U.S. Department of Housing and Urban Development’s Community Development Block Grant Mitigation (“CDBG-MIT”) program to provide financial assistance with funds appropriated under the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Public Law 115-123), enacted on February 9, 2018, for necessary expenses for Activities authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. § 5301 et seq.) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, mitigation, and affirmatively furthering fair housing, in accordance with Executive Order 12892, in the most impacted and distressed areas resulting from major declared disasters that occurred in 2015, 2016, and 2017 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121 et seq.).

Through CDBG-MIT Federal Award Number B-18-DP-48-0002, awarded January 12, 2021, as may be amended from time to time, the GLO administers grant funds as Community Development Block Grants (Catalog of Federal Domestic Assistance Number 14.228, “Community Development Block Grants/State’s program and Non-Entitlement Grants in Hawaii”), as approved by the Texas Land Commissioner and limited to use for facilitating recovery efforts in Presidentially-declared major disaster areas.

ARTICLE I - GENERAL PROVISIONS

1.01 SCOPE OF PROJECT AND SUBAWARD

(a) Scope of Project

The purpose of this Contract is to set forth the terms and conditions of Subrecipient’s participation in the CDBG-MIT program. In strict conformance with the terms and conditions of this Contract, Subrecipient shall perform, or cause to be performed, the Infrastructure Activities defined in **Attachment A** (the “Project”). Subrecipient shall conduct the Project in strict accordance with this Contract, including all Contract Documents listed in **Section 1.02**, below, and any Amendments, Revisions, or Technical Guidance Letters issued by the GLO.

(b) Subaward

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

Subject to the terms and conditions of this Contract and Subrecipient's approved Grant Application, the GLO shall issue a subaward to Subrecipient in an amount not to exceed **\$3,400,594.00**, payable as reimbursement of Subrecipient's allowable expenses, to be used in strict conformance with the terms of this Contract and the Performance Statement, Budget, and Benchmarks in **Attachment A**.

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

1.02 CONTRACT DOCUMENTS

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

- ATTACHMENT A:** Performance Statement, Budget, and Benchmarks
- ATTACHMENT B:** Federal Assurances and Certifications
- ATTACHMENT C:** General Affirmations
- ATTACHMENT D:** Nonexclusive List of Applicable Laws, Rules, and Regulations
- ATTACHMENT E:** Special Conditions
- ATTACHMENT F:** Monthly Activity Status Report
- ATTACHMENT G:** GLO Information Security Appendix (CDBG)
- ATTACHMENT H:** Public Law 113-2 Contract Reporting Template

1.03 GUIDANCE DOCUMENTS

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

- (a) 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- (b) the relevant Federal Register publications;
- (c) the Action Plan;
- (d) the Method of Distribution (as applicable);
- (e) Other guidance posted at: <https://recovery.texas.gov/action-plans/mitigation-funding/index.html>; and

(f) Other guidance posted at: <https://www.hudexchange.info/>.

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

1.04 DEFINITIONS

“Acquisition” means the purchase by Subrecipient of residential real property in a floodplain or Disaster Risk Reduction Area for any public purpose, as further defined in 42 U.S.C. § 5305(a)(1). Subrecipient may acquire property through the property owner’s voluntary relinquishment of the property upon Subrecipient’s purchase of it or through Subrecipient’s eminent domain authority.

“Act” means Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. § 5301, et seq.).

“Action Plan” means the State of Texas CDBG Mitigation (CDBG-MIT) Action Plan, as amended, found at <https://recovery.texas.gov/action-plans/mitigation-funding/index.html>.

“Activity” means a defined class of works or services eligible to be accomplished using CDBG-MIT funds. Activities are specified in Subrecipient’s Performance Statement and Budget in **Attachment A**.

“Administrative and Audit Regulations” means all applicable statutes, regulations, and other laws governing administration or audit of this Contract, including Title 2, Part 200, of the Code of Federal Regulations and Chapters 321 and 2155 of the Texas Government Code.

“Advance Payment” means any payment issued by the GLO to Subrecipient before Subrecipient disburses awarded funds for Program purposes, as further defined at 2 C.F.R. § 200.1 and 2 C.F.R. § 200.305.

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

“Application” or “Grant Application” means the information Subrecipient provided to the GLO that is the basis for the award of funding under this Contract.

“As-Built Plans” means the revised set of drawings submitted by a contractor upon completion of a project or a particular job that reflects all changes made in the specifications and working drawings during the construction process and show the exact dimensions, geometry, and location of all elements of the work completed under the project.

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

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

“AUGF” means HUD Form 7015.16, *Authority to Use Grant Funds*.

“[Benchmark](#)” means the milestones identified in **Attachment A** that define actions and Deliverables required to be completed by Subrecipient for release of funding by the GLO throughout the life of the Contract.

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

“[Buyout](#)” means an Acquisition of real property in a floodplain or Disaster Risk Reduction Area that Subrecipient makes with the intent to reduce risk of real and personal property damage from future flooding events. Real property purchased under a local Buyout program is subject to post-acquisition land-use restrictions, which require that any structures on the property be demolished or relocated and the land be reverted to a natural floodplain, converted into a retention area, or retained as green space for recreational purposes.

“[CDBG-MIT](#)” means the Community Development Block Grant Mitigation Program administered by the U.S. Department of Housing and Urban Development, in cooperation with the GLO.

“[Certificate of Construction Completion](#)” or “[COCC](#)” means a document to be executed by Subrecipient, Subrecipient’s construction contractor, and Subrecipient’s engineer for each construction project that, when fully executed, provides final performance measures for the project and indicates acceptance of the completed project.

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

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

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

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

“[Deliverable](#)” means a work product required to be submitted to the GLO as set forth in the Performance Statement and Benchmarks, which are included in **Attachment A**.

“[Disaster Risk Reduction Area](#)” means a clearly delineated area established by Subrecipient in which real property suffered damage from a disaster for which CDBG-MIT funding has been awarded to Subrecipient and in which the safety and well-being of area residents are at risk from future flooding events.

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

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

“Event of Default” means the occurrence of any of the events set forth in **Section 3.03**, herein.

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

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

“Federal Register” means the official journal of the federal government of the United States that contains government agency rules, proposed rules, and public notices, including U.S. Department of Housing and Urban Development’s Federal Register Notice 84 Fed. Reg. 45838 (August 30, 2019) and any other publication affecting CDBG-MIT funding allocations.

“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.

“FWCR” means Final Wage Compliance Report, a report Subrecipient will prepare at the completion of each federally funded project to certify that all workers on the project have been paid contract-specified prevailing wages and that any restitution owed to workers has been paid.

“GAAP” means “generally accepted accounting principles.”

“GASB” means accounting principles as defined by the Governmental Accounting Standards Board.

“General Affirmations” means the affirmations in **Attachment C**, which Subrecipient certifies by signing this Contract.

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

“GLO Implementation Manual” means the manual created by the GLO for subrecipients of CDBG-MIT grant allocations to provide guidance and training on the policies and procedures required so that subrecipients can effectively implement CDBG-MIT programs and timely spend grant funds.

“Grant Completion Report” or **“GCR”** means a report containing an as-built accounting of all Activities completed under the Project and all information required for final acceptance of Deliverables and Contract closeout.

“Grant Manager” means the authorized representative of the GLO responsible for the day-to-day management of the Project and the direction of staff and independent contractors in the performance of work relating thereto.

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

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

“Implementation Schedule” means the schedule that establishes the Project milestones Subrecipient will utilize to ensure timely expenditures and Project completion.

“Infrastructure” means a project involving the creation of, repairs to, or replacement of public-works facilities and systems, including roads, bridges, dams, water and sewer systems, railways, subways, airports, and harbors. The term “Infrastructure” may also include a Planning Study project that relates to or affects Infrastructure facilities or systems.

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

“Method of Distribution” or **“MOD”** means a document developed for a specific region that outlines the distribution of CDBG-MIT funding to counties, cities, and local government entities in the region.

“MID” means “most impacted and distressed,” referencing a geographical area identified by the State of Texas or HUD as an area that sustained significant damage from a major disaster.

“Monthly Activity Status Report” means a monthly Project Benchmark status report, as required under **Section 4.02**, for which a template is included as **Attachment F** of this Contract.

“NTP” means “notice to proceed,” a written authorization from the GLO to Subrecipient that allows Subrecipient to commence the work described in the NTP.

“Performance Statement” means the statement of work for the Project in **Attachment A**, which includes specific Benchmarks and Activities, provides specific Project details and location(s), and lists Project beneficiaries.

“Planning” means an Activity performed to assist in determining community disaster recovery needs such as urban environmental design, flood control, drainage improvements, surge protection, or other recovery responses. Planning services cannot include engineering design.

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

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

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

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

“Revision” means the GLO’s written approval of changes to Deliverable due dates, movement of funds among budget categories, and other Contract adjustments the GLO may approve without a formal Amendment.

“Start-Up Documentation” means the documents identified in Section 2.8.1 of the GLO Implementation Manual that must be completed and/or submitted to the GLO as specified in **Section 4.01**, below, before the GLO may reimburse Subrecipient for any invoiced expenses.

“Subrecipient” means City of Brenham, a recipient of federal CDBG-MIT funds through the GLO as the pass-through funding agency. Subrecipient may also be referred to as “Provider” herein.

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

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

“U.S.C.” means the United States Code.

1.05 INTERPRETIVE PROVISIONS

- (a) The meaning of a defined term applies to its singular and plural forms.
- (b) The words “hereof,” “herein,” “hereunder,” and similar words refer to this Contract as a whole and not to any particular provision, section, Attachment, or schedule of this Contract unless otherwise specified.
- (c) The term “including” means “including, without limitation.”
- (d) Unless otherwise expressly provided, a reference to a contract includes subsequent amendments and other modifications thereto that were executed according to the contract’s terms and a reference to a statute, regulation, ordinance, or other law includes subsequent amendments, renumbering, recodification, and other modifications thereto made by the enacting authority.
- (e) The captions and headings of this Contract are for convenience of reference only and shall not affect the interpretation of this Contract.
- (f) The limitations, regulations, and policies contained herein are cumulative and each must be performed in accordance with its terms without regard to other limitations, regulations, and policies affecting the same matter.
- (g) Unless otherwise expressly provided, reference to any GLO action by way of consent, approval, or waiver is deemed modified by the phrase “in its sole discretion.” Notwithstanding the preceding, the GLO shall not unreasonably withhold or delay any consent, approval, or waiver required or requested of it.
- (h) All due dates and/or deadlines referenced in this Contract that occur on a weekend or holiday shall be considered as if occurring on the next business day.
- (i) All time periods in this Contract shall commence on the day after the date on which the applicable event occurred, report is submitted, or request is received.
- (j) Time is of the essence in this Contract.

- (k) In the event of conflicts or inconsistencies between this Contract, its Attachments, federal and state requirements, and any documents incorporated herein by reference, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: all applicable laws, rules, and regulations, including, but not limited to, those included in **Attachment D**; the Contract; **Attachment A**; **Attachment E**; **Attachment B**; **Attachment C**; **Attachment F**; **Attachment G**; **Attachment H**; applicable Guidance Documents; and the GLO Implementation Manual. Conflicts or inconsistencies between GLO Implementation Manual and this Contract; any laws, rules, or regulations; or any of the Guidance Documents should be reported to the GLO for clarification of the GLO Implementation Manual.

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

2.01 REIMBURSEMENT REQUESTS

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

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

A draw request for an Advance Payment must be supported with documentation clearly demonstrating that the Advance Payment is required by Subrecipient in order for Subrecipient to continue carrying out the purpose of the Project.

2.02 TIMELY EXPENDITURES

In accordance with the Federal Register and to ensure timely expenditure of grant funds, Subrecipient shall submit reimbursement requests under this Contract, at a minimum, quarterly.

THE GLO MUST RECEIVE A REIMBURSEMENT REQUEST FOR AN INCURRED EXPENSE NOT LATER THAN ONE HUNDRED TWENTY (120) DAYS FROM THE DATE SUBRECIPIENT OR ANY OF ITS SUBCONTRACTORS INCUR THE EXPENSE. THE GLO MAY, IN ITS SOLE DISCRETION, DENY REIMBURSEMENT REQUESTS THAT DO NOT MEET THIS REQUIREMENT, ISSUE DELINQUENCY NOTICES, WITHHOLD CAPACITY POINTS ON FUTURE FUNDING COMPETITIONS, IMPOSE A MONITORING REVIEW OF SUBRECIPIENT'S ACTIVITIES, OR IMPLEMENT OTHER CORRECTIVE ACTIONS.

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

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

2.03 VARIANCE

Amendments to decrease or increase the subaward amount or to add or delete an Activity may be made only by written agreement of the Parties, under the formal Amendment process described in **Section 8.16**, below. The GLO may, in its sole discretion and in conformance with federal law, approve other adjustments required during Project performance through a Revision or Technical Guidance Letter. Such approvals must be in writing and may be delivered by regular or electronic mail.

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

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

2.04 PROGRAM INCOME

In accordance with 24 C.F.R. § 570.489(e), Subrecipient shall maintain records of the receipt and accrual of all program income, as "program income" is defined in that section. Subrecipient shall report program income to the GLO in accordance with **Article IV** of this Contract. Subrecipient shall return all program income to the GLO at least quarterly.

2.05 SUBAWARD OFFER SUBJECT TO CANCELLATION

IF SUBRECIPIENT DOES NOT RETURN THE ORIGINAL SIGNED CONTRACT TO THE GLO WITHIN SIXTY (60) DAYS OF TRANSMITTAL OF THE CONTRACT TO SUBRECIPIENT, SUBAWARD FUNDING FOR THE PROJECT MAY BE SUBJECT TO CANCELLATION, IN THE SOLE DISCRETION OF THE GLO.

ARTICLE III - DURATION, EXTENSION, AND TERMINATION OF CONTRACT

3.01 DURATION OF CONTRACT AND EXTENSION OF TERM

This Contract shall become effective on the date on which it is signed by the last Party and shall terminate on **July 28, 2025**, or upon the completion of all Benchmarks listed in **Attachment A** and required closeout procedures, whichever occurs first. **Subrecipient**

must meet all Project Benchmarks identified in Attachment A. Subrecipient's failure to meet any Benchmark may result in suspension of payment or termination under Sections 3.02, 3.03, or 3.04, below.

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

3.02 EARLY TERMINATION

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

3.03 EVENTS OF DEFAULT

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

3.04 REMEDIES; NO WAIVER

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

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

3.05 REVERSION OF ASSETS

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

- (a) If applicable, Subrecipient shall transfer to the GLO any CDBG-MIT funds Subrecipient has in its possession at the time of expiration or termination that are not attributable to work performed on the Project and any accounts receivable attributable to the use of CDBG-MIT funds awarded under this Contract; and
- (b) If applicable, real property under Subrecipient's control that was acquired or improved, in whole or in part, with funds in excess of \$25,000 under this Contract shall be used to meet one of the CDBG-MIT National Objectives pursuant to 24 C.F.R. § 570.208, as identified in the Action Plan, until five (5) years after the expiration of this Contract or such longer period of time as the GLO deems appropriate. If Subrecipient fails to use the CDBG-MIT funded real property in a manner that meets a CDBG-MIT National Objective for the prescribed period of time, Subrecipient shall pay the GLO an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG-MIT funds for acquisition of, or improvement to, the property. Subrecipient may retain real property acquired or improved under this Contract after the expiration of the five-year period or such longer period of time as the GLO deems appropriate.

ARTICLE IV - CONTRACT ADMINISTRATION

4.01 SUBMISSIONS – GENERALLY

Except for legal notices that must be sent by specific instructions pursuant to **Section 8.10** of the Contract, any report, form, document, or request required to be submitted to the GLO under this Contract shall be sent in the format prescribed by the GLO.

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

(a) **Start-Up Documentation**

Not later than the close of business sixty (60) calendar days after the effective date of this Contract, Subrecipient must submit its Start-Up Documentation to the GLO.

(b) **Audit Certification Form**

Not later than the close of business sixty (60) calendar days after the end of Subrecipient's fiscal year for each year during the Contract term, Subrecipient must submit a completed Audit Certification Form to the GLO.

(c) **Other Forms**

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

- (i) Subrecipient certifies, by the execution of this Contract, all applicable statements in **Attachment C**, General Affirmations;

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

4.02 MONTHLY ACTIVITY STATUS REPORTS

Subrecipient must provide monthly Activity status reporting, in the format prescribed in **Attachment F** (Monthly Activity Status Report) or as otherwise instructed by the GLO Grant Manager, for each individual Activity identified in **Attachment A**. The Monthly Activity Status Report is due on the fifth day of the month following the month in which the reported Activities were performed for the duration of the Contract. Subrecipient shall submit the Monthly Activity Status Reports to the GLO through the TIGR system as prescribed in **Attachment F** or as specified by the GLO Grant Manager.

4.03 HUD CONTRACT REPORTING REQUIREMENT

HUD requires the GLO to maintain a public website that accounts for the use and administration of all GLO-administered CDBG-MIT grant funds. To assist the GLO in meeting this requirement, Subrecipient must prepare and submit monthly to the GLO a written summary of all contracts procured by Subrecipient using grant funds awarded under this Contract. Subrecipient shall only report contracts as defined in 2 C.F.R. § 200.1. Subrecipient must use a template developed by HUD to prepare the monthly reports, attached hereto as **Attachment H** and accessible online at <https://www.hudexchange.info/resource/3898/public-law-113-2-contract-reporting-template/>. On or before the fifth day of each month during the Contract Period, reports summarizing required information for the preceding month shall be submitted through the TIGR system as prescribed in **Attachment H** or as specified by the GLO Grant Manager. Additional information about this reporting requirement is available in Federal Register publications governing the CDBG-MIT funding allocation.

4.04 SECTION 3 REPORTING REQUIREMENTS

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

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

Quarter 1 (Sept-Nov): Due **December 10th**

Quarter 2 (Dec-Feb): Due **March 10th**

Quarter 3 (Mar-May): Due **June 10th**

Quarter 4 (Jun-Aug): Due **September 10th**

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

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

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

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

5.01 FEDERAL FUNDING

- (a) Funding for this Contract is appropriated under the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Division B, Subdivision 1 of the Bipartisan Budget Act of 2018) (Public Law 115-123), enacted on February 9, 2018, for necessary expenses for Activities authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. § 5301 et seq.) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, mitigation, and affirmatively furthering fair housing, in accordance with Executive Order 12892, in the most impacted and distressed areas resulting from major declared disasters that occurred in 2015, 2016, and 2017 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121 et seq.). The fulfillment of this Contract is based on those funds being made available to the GLO as the lead administrative state agency. All expenditures under this Contract must be made in accordance with this Contract, the rules and regulations promulgated under the CDBG-MIT Program and any other applicable laws. **All funds disbursed under this Contract are subject to recapture and repayment for non-compliance.**
- (b) **Subrecipient must have an assigned Unique Entity Identifier (UEID) and a Commercial and Government Entity (CAGE) code. Subrecipient must report its UEID and CAGE code to the GLO for use in various reporting documents.** A UEID and CAGE code may be obtained by visiting the System for Award Management website at <https://www.sam.gov>. **Subrecipient is responsible for renewing its registration with the System for Award**

Management annually and maintaining an active registration status throughout the Contract Period.

5.02 STATE FUNDING

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

5.03 RECAPTURE OF FUNDS

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

5.04 OVERPAYMENT AND DISALLOWED COSTS

Subrecipient shall be liable to the GLO for any costs disallowed pursuant to financial and/or compliance audit(s) of funds Subrecipient received under this Contract. Subrecipient shall reimburse the GLO for such disallowed costs from funds that were not provided or otherwise made available to Subrecipient under this Contract. Subrecipient must refund disallowed costs and overpayments of funds received under this Contract to the GLO within 30 days after the GLO issues notice of overpayment to Subrecipient.

5.05 FINAL BENCHMARK

(a) Construction Activities

To ensure full performance of each construction Activity and the Project, the GLO has set aside an amount equal to five percent (5%) of Subrecipient's construction budget per Activity until completion and acceptance by the GLO of all actions and Deliverables for the Activity, as identified in **Attachment A**.

The GLO shall make the final disbursement to Subrecipient only upon the GLO's receipt and acceptance of the Deliverables identified in **Attachment A** as required for the completion of construction phase.

If Subrecipient has multiple construction subcontracts, an amount equal to five percent (5%) of Subrecipient's construction budget per construction subcontract shall be withheld by the GLO until completion and acceptance by the GLO of all actions and Deliverables identified in **Attachment A** for the particular project. Separate Deliverables are required per construction subcontract, and associated costs are pro-rated in accordance with budget details in the final GLO-approved Application. If a project includes more than one Environmental Review Record, associated costs are pro-rated in accordance with budget details in the final GLO-approved Application.

(b) Project Delivery – Grant Administration

To ensure full performance of this Contract, the GLO has set aside an amount equal to five percent (5%) of Subrecipient's project delivery – grant administration budget until completion and acceptance by the GLO of all actions and Deliverables identified in **Attachment A**.

ARTICLE VI - INTELLECTUAL PROPERTY

6.01 OWNERSHIP AND USE

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

6.02 NON-ENDORSEMENT BY STATE AND THE UNITED STATES

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

approves of Subrecipient's work products or considers Subrecipient's work product to be superior to other products or services.

6.03 DISCLAIMER REQUIRED

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

ARTICLE VII - RECORDS, AUDIT, AND RETENTION

7.01 BOOKS AND RECORDS

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

7.02 INSPECTION AND AUDIT

- (a) All records related to this Contract, including records of Subrecipient and its subcontractors, shall be subject to the Administrative and Audit Regulations. Accordingly, such records and work product shall be subject, at any time, to inspection, examination, audit, and copying at Subrecipient's primary location or any location where such records and work product may be found, with or without notice from the GLO or other government entity with necessary legal authority. Subrecipient shall cooperate fully with any federal or state entity in the conduct of inspection, examination, audit, and copying, including providing all information requested. Subrecipient will ensure that this clause concerning federal and state entities' authority to inspect, examine, audit, and copy records and work product, and the requirement to fully cooperate with the federal and state entities, is included in any subcontract it awards.
- (b) The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. Acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. **The Office of the Comptroller General of the United States, the Government Accountability Office, the Office of Inspector General, or any authorized representative of the U.S. Government shall also have this right of inspection.** Subrecipient shall ensure that this clause concerning the authority to

audit funds received indirectly by subcontractors through Subrecipient and the requirement to cooperate is included in any subcontract it awards.

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

7.03 PERIOD OF RETENTION

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

ARTICLE VIII - MISCELLANEOUS PROVISIONS

8.01 LEGAL OBLIGATIONS

For the duration of this Contract, Subrecipient shall procure and maintain any license, authorization, insurance, waiver, permit, qualification, or certification required by federal, state, county, or city statute, ordinance, law, or regulation to be held by Subrecipient to provide the goods or services required by this Contract. Subrecipient shall pay all costs associated with all taxes, assessments, fees, premiums, permits, and licenses required by law. Subrecipient shall pay any such government obligations not paid by its subcontractors during performance of this Contract. **Subrecipient shall maintain copies of such licenses and permits as a part of its local records in accordance with Section 7.01 of this Contract or as otherwise specifically directed by the GLO. Subrecipient shall provide Monthly Activity Status Reports via the GLO system of record in accordance with Section 4.02 of this Contract.**

8.02 INDEMNITY

As required under the Constitution and laws of the State of Texas, each Party understands that it is solely liable for any liability resulting from its acts or omissions. No act or omission of a Party shall be imputed to the other Party. Neither Party shall indemnify or defend the other Party.

8.03 INSURANCE AND BOND REQUIREMENTS

- (a) Unless Subrecipient is authorized by Chapter 2259 of the Texas Government Code to self-insure, Subrecipient shall carry insurance for the duration of this Contract in types and amounts necessary and appropriate for the Project.
- (b) Subrecipient 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. Subrecipient shall require any person or entity required to obtain insurance under this section to complete and file the declaration pages from the insurance policies with Subrecipient whenever a previously identified policy period expires during the term of Subrecipient's contract with the person or entity, as proof of continuing coverage. Subrecipient's contract with any such person or entity shall clearly state that acceptance of the insurance policy declaration pages by Subrecipient shall not relieve or decrease the liability of the person or entity. **Persons or entities shall be required to update all expired policies before Subrecipient's acceptance of an invoice for monthly payment from such parties.**

- (c) Subrecipient shall require performance and payment bonds to the extent they are required under Chapter 2253 of the Texas Government Code.
- (d) **Subrecipient shall require any person or entity performing work on any construction Activity under the Contract to complete form SF-424D, entitled "Assurances – Construction Programs," and Subrecipient shall maintain such documentation.**

8.04 ASSIGNMENT AND SUBCONTRACTS

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

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

8.05 PROCUREMENT

Subrecipient must comply with the procurement procedures stated at 2 C.F.R. §§ 200.318 through 200.327 and all other applicable federal, state, and local procurement procedures and laws, regulations, and rules. Failure to comply with 2 C.F.R. §§ 200.318 through 200.327 and all other applicable federal, state, and local procurement procedures and laws, regulations, and rules could result in recapture of funds. Subrecipient must confirm that its vendors and subcontractors are not debarred from receiving state or federal funds at each of the following web addresses:

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

8.06 EQUIPMENT AND COMPUTER SOFTWARE

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

In accordance with 24 C.F.R. § 570.502(a), if Equipment is acquired, in whole or in part, with funds under this Contract and is then sold, the proceeds shall be considered program income, as defined in **Section 2.04** above. Equipment not needed by Subrecipient for Activities under this Contract shall be (a) transferred to the GLO for the CDBG-MIT Program or (b) retained by Subrecipient after compensating the GLO an amount equal to the current fair market value of the Equipment less the percentage of non-CDBG-MIT funds used to acquire the Equipment.

8.07 COMMUNICATION WITH THIRD PARTIES

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

8.08 RELATIONSHIP OF THE PARTIES

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

8.09 COMPLIANCE WITH OTHER LAWS

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

applicable laws, statutes, ordinances, and regulations affecting its performance under this Contract.

8.10 NOTICES

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

GLO

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

Subrecipient

City of Brenham
PO Box 1059
Brenham, Texas 77834
Attention: Milton Tate Jr.

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

8.11 GOVERNING LAW AND VENUE

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

8.12 SEVERABILITY

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

8.13 DISPUTE RESOLUTION

Except as otherwise provided by statute, rule or regulation, Subrecipient shall use the dispute resolution process established in Chapter 2260 of the Texas Government Code and related rules to attempt to resolve any dispute under this Contract, including a claim for breach of contract by the GLO, that the Parties cannot resolve in the ordinary course of business. Neither the occurrence of an event giving rise to a breach of contract claim

nor the pendency of such a claim constitutes grounds for Subrecipient to suspend performance of this Contract. Notwithstanding this provision, the GLO reserves all legal and equitable rights and remedies available to it. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF THE GLO'S SOVEREIGN IMMUNITY.**

8.14 CONFIDENTIALITY

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

8.15 PUBLIC RECORDS

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

8.16 AMENDMENTS TO THE CONTRACT

Amendments to decrease or increase the subaward, to add or delete an Activity as allowed by the Guidance Documents, to extend the term of the Contract, and/or to make other substantial changes to the Contract may be made only by written agreement of the Parties under the formal Amendment process outlined below, except that, upon completion of the Project, the GLO shall issue a closeout letter pursuant to **Section 2.03**. The formal Amendment process requires official request documentation from Subrecipient detailing all provisions to be amended and supporting documentation as required. The GLO Grant Manager will confirm and review the request and, as appropriate, submit the proposed amended language or amount to the GLO's Contract

Management Division for the preparation of a formal Amendment and circulation for necessary GLO and Subrecipient signatures. In the sole discretion of the GLO and in conformance with federal law, the GLO may approve other adjustments required by the GLO during Project performance through a Revision or Technical Guidance Letter unilaterally issued by the GLO and acknowledged by Subrecipient. Such GLO approvals must be in writing and may be delivered by U.S. mail or electronic mail.

Pursuant to **Section 2.03** hereof, a final **Grant Completion Report** for all Activities performed under this Contract shall be submitted to the GLO for review and approval prior to expiration of the Contract and shall include all such informal Revisions approved by the GLO over the life of the Contract.

8.17 ENTIRE CONTRACT AND MODIFICATIONS

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

8.18 PROPER AUTHORITY

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

8.19 COUNTERPARTS

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

8.20 SURVIVAL

The provisions of **Articles V, VI, and VII** and **Sections 1.01, 1.03, 2.05, 3.02, 3.04, 3.05, 8.02, 8.03, 8.07, 8.08, 8.09, 8.10, 8.11, 8.13, 8.14, 8.15, and 8.16** of this Contract and any other continuing obligations of Subrecipient shall survive the termination or expiration of this Contract.

8.21 CONTRACT CLOSEOUT

Upon completion of all Activities required for the Contract, and, pursuant to **Section 2.03** hereof, Subrecipient shall prepare a final **Grant Completion Report** confirming final performance measures, budgets, and expenses. The GLO will close the Contract in

accordance with 2 C.F.R. §§ 200.344 through 200.346 and GLO CDBG-MIT guidelines consistent therewith.

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

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

8.22 INDIRECT COST RATES

Unless, under the terms of 2 C.F.R. Part 200, Appendix V, Subrecipient has negotiated or does negotiate an indirect cost rate with the federal government, subject to periodic renegotiations of the rate during the Contract Period, or is exempt from such negotiations and has developed and maintains an auditable central service cost allocation plan, Subrecipient's indirect cost rate shall be set by 2 C.F.R. § 200.414(f), i.e., ten percent (10%).

8.23 CONFLICT OF INTEREST

- (a) Subrecipient shall abide by the provisions of this section and include the provisions in all subcontracts. Subrecipient shall comply with all conflict-of-interest laws and regulations applicable to the Program.
- (b) Subrecipient shall maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts.

8.24 FORCE MAJEURE

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

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

8.25 ENVIRONMENTAL CLEARANCE REQUIREMENTS

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

8.26 CITIZEN PARTICIPATION AND ALTERNATIVE REQUIREMENTS

- (a) Subrecipient must ensure that all citizens have equal and ongoing access to information about an Activity or the Project, including ensuring that Activity or Project information is available in the appropriate languages for the geographical area served by Subrecipient. Information furnished to citizens shall include, without limitation:
 - (i) The amount of CDBG-MIT funds expected to be made available;
 - (ii) The range of Activities or projects that may be undertaken with the CDBG-MIT funds;
 - (iii) The estimated amount of the CDBG-MIT funds proposed to be used for Activities or projects meeting the national objective of benefiting low-to-moderate income persons; and
 - (iv) A clear statement of such and the entity’s anti-displacement and relocation plan if any proposed CDBG-MIT Activities or projects are likely to result in displacement.

- (b) Complaint Procedures: Subrecipient must have written citizen-complaint procedures for providing a timely written response (within fifteen [15] working days) to complaints and grievances. Subrecipient shall notify citizens of the location and the days and hours when the location is open for business so they may obtain a copy of these written procedures.
- (c) Technical Assistance: If requested, Subrecipient shall provide technical assistance in completing applications under the Project to persons of low and moderate income.
- (d) Subrecipient shall maintain a citizen participation file that includes a copy of Subrecipient's complaint procedures, documentation and evidence of opportunities provided for citizen participation (e.g., public notices, advertisements, flyers, etc.), documentation of citizen participation events (e.g., meeting minutes, attendance lists, sign-in sheets, news reports, etc.), and documentation of any technical assistance requested and/or provided.

8.27 SIGNAGE REQUIREMENTS

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

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

All signage required under this section shall contain the following:

"This project is funded by the Texas General Land Office of the State of Texas to provide for the restoration of infrastructure for communities impacted by the 2016 Floods. The funds have been allocated by the United States Department of Housing and Urban Development through the Community Development Block Grant – Mitigation Program."

8.28 PREFERENCE AND PROCUREMENT OF MATERIALS

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

8.29 EQUAL OPPORTUNITY CLAUSE

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

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

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

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

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

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or

applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

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

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

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

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

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

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

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

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

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

8.30 INFORMATION AND DATA SECURITY STANDARDS

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

8.31 STATEMENTS OR ENTRIES

WARNING: ANY PERSON WHO KNOWINGLY MAKES A FALSE CLAIM OR STATEMENT TO HUD MAY BE SUBJECT TO CIVIL OR CRIMINAL PENALTIES UNDER 18 U.S.C. § 287, 18 U.S.C. § 1001, AND 31 U.S.C. § 3729.

Except as otherwise provided under federal law, any person who knowingly and willfully falsifies, conceals, or covers up a material fact by any trick, scheme, or device or who makes any materially false, fictitious, or fraudulent statement or representation or who makes or uses any false writing or document despite knowing the writing or document to contain any materially false, fictitious, or fraudulent statement or entry shall be prosecuted under Title 18, United States Code, § 1001.

Under penalties of 18 U.S.C. § 287, 18 U.S.C. § 1001, and 31 U.S.C. § 3729, the undersigned Subrecipient representative hereby declares that he/she has examined this Contract and Attachments, and, to the best of his/her knowledge and belief, any

statements, entries, or claims made by Subrecipient are true, accurate, and complete.

SIGNATURE PAGE FOLLOWS

**SIGNATURE PAGE FOR GLO CONTRACT NO. 22-082-023-D556
INFRASTRUCTURE SUBRECIPIENT CONTRACT AGREEMENT
CDBG-MIT – 2016 FLOODS STATE MID COMPETITION ROUND 1**

GENERAL LAND OFFICE

CITY OF BRENHAM

Mark A. Havens, Chief Clerk/
Deputy Land Commissioner

By: Milton Tate
Title: Mayor

Date of execution: _____

Date of execution: _____

OGC ^{DS}
[Signature]

PM ^{DS}
[Signature]

SDD ^{DS}
[Signature]

DGC ^{DS}
[Signature]

GC ^{DS}
[Signature]

ATTACHED TO THIS CONTRACT:

- ATTACHMENT A** Performance Statement, Budget, and Benchmarks
- ATTACHMENT B** Federal Assurances and Certifications
- ATTACHMENT C** General Affirmations
- ATTACHMENT D** Nonexclusive List of Applicable Laws, Rules, and Regulations
- ATTACHMENT E** Special Conditions
- ATTACHMENT F** Monthly Activity Status Report
- ATTACHMENT G** GLO Information Security Appendix (CDBG)
- ATTACHMENT H** Public Law 113-2 Contract Reporting Template

ATTACHMENTS FOLLOW

**CITY OF BRENHAM
22-082-023-D556****PERFORMANCE STATEMENT**

The U.S. Department of Housing and Urban Development's Community Development Block Grant Mitigation ("CDBG-MIT") program to provide financial assistance with funds appropriated under Public Law 115-123, was enacted on August 30, 2019, to facilitate disaster recovery, restoration, mitigation, and economic revitalization and to affirmatively further fair housing, in accordance with Executive Order 12892, in areas affected by 2015, 2016, and 2017 disasters, which are Presidentially-declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121, *et seq.*).

In strict conformance with the terms and conditions of the 2016 State Most Impacted and Distressed (SMID) Competition and this Contract, City of Brenham (Subrecipient) shall perform, or cause to be performed, the Infrastructure Activities defined below.

The Subrecipient has identified drainage improvement Activities that will increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

Subrecipient shall perform the Activities identified herein for the target area specified in its approved Texas Community Development Block Grant Mitigation Grant Application to provide a long-lasting investment that increases resiliency in the community. The persons to benefit from the Activities described herein must receive the prescribed service or benefit, and all eligibility requirements must be met to fulfill contractual obligations.

The grant total is \$3,400,594.00 Subrecipient will be required to maintain a detailed budget breakdown in the official system of record of the GLO's Community Development and Revitalization (GLO-CDR) division.

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Flood and Drainage Facilities

Subrecipient shall strengthen and improve the streambank and complete all associate appurtenances. Construction shall take place at the following locations, including mid-point coordinates for each segment.

Flood and Drainage Facilities	Location Approximate Lat/Long	Proposed HUD Performance Measures	Census Tract	Block Group
Drainage Improvements Hogg Branch Creek	From a point approximately 390' north of the intersection of South Blue Bell Road and East Alamo Street thence southward to a point approximately 100' north of the intersection of South Market Street and East 6 th Street 30.16509, -96.38758	6,600 LF	1701.00 1703.00 1704.00	1,2 1 1,2,3
This Activity shall benefit six thousand nine hundred fifteen (6,915) persons. Of these persons, three thousand seven hundred twenty (3,720), or fifty-three and seventy-nine hundredths' percent (53.79%), are of low to moderate income.				

BUDGET

HUD Activity Type	Grant Award	Other Funds	Total
Rehabilitation/Reconstruction of Public Facilities	\$3,400,594.00	\$34,006.00 ¹	\$3,434,600.00
TOTAL	\$3,400,594.00	\$34,006.00¹	\$3,434,600.00

¹ CITY OF BRENHAM DRAINAGE FUND TO BE USED TOWARDS CONSTRUCTION

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MILESTONES

Budget Gates, Milestones, Actions, and Deliverables	Not-To-Exceed Budget Gate Percentages by Budget Category (Subrecipient may draw up to, but not-to-exceed, the identified percentage of the budget category until stated deliverable(s) are submitted to and approved by the GLO.)			Single Deliverable Milestones by Budget Category (Subrecipient may draw up to 100% of budget category after submittal to and approval by the GLO of the stated deliverable.)		Multiple Deliverable Milestones (Subrecipient may draw up to, but not- to-exceed, the percentage stated after submittal to and approval by the GLO of the stated deliverable.)	
	Project Delivery		Engineering Funds	Special Environ- mental Funds	Acquisition Funds	Construction Funds	Planning/ Studies (not related to engineering design)
Project Phase Actions and Deliverables:	Grant Administration Funds	Environ- mental Funds					
Action: Start-up Phase Deliverable: Contract kick-off meeting sign-in sheet; all required start-up documentation reviewed and accepted by GLO; executed grant administration service provider contract in pdf.	0-15%						
Action: Commencement of Engineering Phase Deliverable: Executed engineering service provider contract in pdf provided during start-up phase as applicable.			0-30%				
Action: Commencement of Environmental Phase Deliverable: Executed environmental service provider contract in pdf provided during start-up phase as applicable.	15.01-30%	0-30%					
Action: Completion of Design Phase Deliverable: Complete signed and sealed 100% construction plans in pdf*.			30.01-60%				

Project Phase Actions and Deliverables:	Project Delivery		Engineering Funds		Special Environ- mental Funds	Acquisition Funds		Construction Funds	Planning/ Studies (not related to engineering design)
	Grant Administration Funds	Environ- mental Funds							
Action: Completion of Special Environmental Services Deliverable: GLO approval of required documentation, dependent upon additional environmental requirements.					100%				
Action: Completion of Environmental Record Review Deliverable: GLO signed AUGF**	30.01-50%	30.01-100%							
Action: Acquisition Phase Deliverable: Acquisition Detailed Report and supporting documentation per parcel accepted by GLO*						100%			
Action: Commencement of Bid Phase Deliverable: First published bid notice and publisher's affidavit*	50.01-60%		60.01-70%						
Action: Commencement of Construction Phase Deliverable: Signed Notice to Proceed (NTP)*	60.01-85%		70.01-85%					0-95%	
Action: Completion of Construction Phase Deliverable: Signed and sealed complete as-built plans in pdf; executed COCC accepted by GLO; signed FWCR accepted by GLO*	85.01-95%		85.01-100%					95.01-100%	
Action: Commencement of Planning/Study Phase Deliverable: Signed notice to proceed or similar document from Subrecipient initiating planning/study activity with description of work to be performed.									0-85%
Action: Completion of Planning/Study Phase Deliverable: Final report and proof of acceptance by the Subrecipient.									85.01-100%

Project Phase Actions and Deliverables:	Project Delivery		Engineering Funds		Special Environ- mental Funds	Acquisition Funds		Construction Funds	Planning/ Studies (not related to engineering design)
	Grant Administration Funds	Environ- mental Funds							
Action: Grant Completion Report Approval Deliverable: GCR approved by GLO.	95.01-100%								
Failure to provide any deliverable identified could result in repayment of funds expended in part or in full. Deliverables identified in the table allow the subrecipient to draw the identified percentage per category contingent upon compliance of associated program guidance. *if multiple construction contracts, multiple deliverables are required and associated costs are pro-rated in accordance with budget details in final GLO approved application **if project includes more than one ERR, associated costs are pro-rated in accordance with budget details in final GLO approved application									

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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 Mayor
APPLICANT ORGANIZATION City of Brenham		DATE SUBMITTED

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

THIS FORM MUST BE EXECUTED

**CERTIFICATION REGARDING LOBBYING
COMPLIANT WITH APPENDIX A TO 24 C.F.R. PART 871***Certification for Contracts, Grants, Loans, and Cooperative Agreements:*

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

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

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance:

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

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

NAME OF APPLICANT

AWARD NUMBER AND/OR PROJECT NAME

City of Brenham

22-082-023-D556

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Milton Tate

Mayor

SIGNATURE

DATE

1 24 C.F.R. 87 App. A, available at <https://www.gpo.gov/fdsys/granule/CFR-2011-title24-vol1/CFR-2011-title24-vol1-part87-appA>. Published Apr. 1, 2011. Accessed Aug. 1, 2018.

Disclosure of Lobbying 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: _____ a. contract _____ b. grant _____ c. cooperative agreement _____ d. loan _____ e. loan guarantee _____ f. loan insurance	2. *Status of Federal Action: _____ a. bid/offer/application _____ b. initial award _____ c. post-award	3. *Report Type: _____ a. initial filing _____ b. material change
4. Name and Address of Reporting Entity: _____ Prime _____ Subawardee *Name: _____ *Street 1: _____ Street 2: _____ *City: _____ State: _____ Zip: _____		
5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: 		
6. Federal Department/Agency: 	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known: 	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Registrant Prefix _____ *First Name _____ Middle Name _____ *Last Name _____ Suffix _____ *Street 1: _____ Street 2: _____ *City: _____ State: _____ Zip: _____		
b. Individuals Performing Services (including address if different from No. 10a) Prefix _____ *First Name _____ Middle Name _____ *Last Name _____ Suffix _____ *Street 1: _____ Street 2: _____ *City: _____ State: _____ Zip: _____		
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.

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

GENERAL AFFIRMATIONS

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

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

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

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

9. Subrecipient 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. Subrecipient agrees that any payments due under the Contract shall be applied towards any debt or delinquency that is owed by Subrecipient to the State of Texas.
11. Upon request of the GLO, Subrecipient 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, Subrecipient 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 Subrecipient's submission of its offer to provide consulting services to the GLO or, in the alternative Subrecipient, 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, Subrecipient 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 SUBRECIPIENT.
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, Subrecipient 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 SUBRECIPIENT.
 - a. Notwithstanding Texas Government Code, Chapter 2260.002(3) and Chapter 114.012 and any other statute or applicable law, if Subrecipient's claim for breach of contract cannot be resolved by the Parties in the ordinary course of business, Subrecipient may make a claim against the GLO for breach of contract and the GLO may assert a counterclaim against Subrecipient as is contemplated by Texas Government Code, Chapter 2260, Subchapter B. In such event, Subrecipient must provide written notice to the GLO of a claim for breach of the Contract not later than the 180th day after the date

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of the event giving rise to the claim. The notice must state with particularity: (1) the nature of the alleged breach; (2) the amount Subrecipient 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 Subrecipient 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 Subrecipient'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 Subrecipient. 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 Subrecipient. 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 Subrecipient 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. Subrecipient 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 Subrecipient: (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, Subrecipient 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. Subrecipient understands that all obligations of the GLO under this

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Contract are subject to the availability of funds. If such funds are not appropriated or become unavailable, the GLO may terminate the Contract. The Contract shall not be construed as creating a debt on behalf of the GLO in violation of Article III, Section 49a of the Texas Constitution.

17. Subrecipient 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, Subrecipient 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. Subrecipient 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, Subrecipient certifies that neither Subrecipient nor any person or entity represented by Subrecipient 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, Subrecipient 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 Subrecipient from providing free technical assistance.*
21. Subrecipient 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, Subrecipient 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, Subrecipient further represents and warrants that if a former employee of the GLO was employed by Subrecipient within one year of the employee's leaving the GLO, then such employee will not perform services on projects with Subrecipient that the employee worked on while employed by the GLO.*
23. The Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to any Party.

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

24. IF THE CONTRACT IS NOT FOR ARCHITECTURE OR ENGINEERING SERVICES GOVERNED BY TEXAS GOVERNMENT CODE CHAPTER 2254, SUBRECIPIENT, 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 SUBRECIPIENT 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 SUBRECIPIENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SUBRECIPIENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. SUBRECIPIENT 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, SUBRECIPIENT, 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 SUBRECIPIENT'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE SUBRECIPIENT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO SUBRECIPIENT, OR ANY OTHER ENTITY OVER WHICH SUBRECIPIENT EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY SUBRECIPIENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SUBRECIPIENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. SUBRECIPIENT AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.*
26. TO THE EXTENT ALLOWED BY LAW, SUBRECIPIENT 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 SUBRECIPIENT PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) THE GLO'S AND/OR SUBRECIPIENT'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE GLO BY SUBRECIPIENT OR OTHERWISE TO WHICH THE GLO HAS ACCESS AS A RESULT OF SUBRECIPIENT'S PERFORMANCE UNDER THE CONTRACT. SUBRECIPIENT AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. SUBRECIPIENT SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY SUBRECIPIENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SUBRECIPIENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, SUBRECIPIENT 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 SUBRECIPIENT OR IF THE GLO IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, THE GLO WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND SUBRECIPIENT WILL PAY ALL REASONABLE COSTS OF THE GLO'S COUNSEL.*

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

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

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. Subrecipient 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 Subrecipient, in its performance of the Contract, has access to a state computer system or database, Subrecipient must complete a cybersecurity training program certified under Texas Government Code Section 2054.519, as selected by the GLO. Subrecipient must complete the cybersecurity training program during the initial term of the Contract and during any renewal period. Subrecipient must verify in writing to the GLO its completion of the cybersecurity training program.
38. Under Section 2155.0061, Texas Government Code, Subrecipient 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. Subrecipient 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 Subrecipient's business. Subrecipient acknowledges that such a vaccine or recovery requirement would make Subrecipient ineligible for a state-funded contract.
40. Pursuant to Government Code Section 2274.0102, Subrecipient certifies that neither it nor its parent company, nor any affiliate of Subrecipient 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 Subrecipient is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Subrecipient verifies that Subrecipient does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Subrecipient does not make that verification, Subrecipient must notify the GLO and state why the verification is not required.*
42. If Subrecipient is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Subrecipient 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 Subrecipient does not make that verification, Subrecipient must notify the GLO and state why the verification is not required.*
43. If Subrecipient is a "professional sports team" as defined by Texas Occupations Code Section 2004.002, Subrecipient will play the United States national anthem at the beginning of each team sporting event held at Subrecipient's home venue or other venue controlled by Subrecipient for the event. Failure to comply with this obligation constitutes a default of this Contract, and immediately subjects Subrecipient to the penalties for default, such as repayment of money received or ineligibility for additional money. In addition, Subrecipient

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

may be debarred from 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 Subrecipient and the Contract, in accordance with Section 552.372 of the Texas Government Code, Subrecipient 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 Subrecipient'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 Subrecipient'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 Subrecipient agrees that the Contract may be terminated if Subrecipient 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, Subrecipient, 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 Subrecipient compiled in connection with its performance under the Contract.*
46. If subject to 2 CFR 200.216, Subrecipient 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 Subrecipient 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.

NONEXCLUSIVE LIST OF APPLICABLE LAWS, RULES, AND REGULATIONS

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

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

GENERALLY

The Acts and Regulations specified in this Contract;

Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Division B, Subdivision 1 of the Bipartisan Budget Act of 2018) (Public Law 115-123);

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

The United States Housing Act of 1937, as amended, 42 U.S.C. § 1437f(o)(13) (2016) and related provisions governing Public Housing Authority project-based assistance, and implementing regulations at 24 C.F.R. Part 983 (2016);

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

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

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

Community Development Block Grant Disaster Recovery and Mitigation Implementation Manual; and

State of Texas CDBG Mitigation Action Plan, dated March 31, 2020, as may be amended.

CIVIL RIGHTS

Title VI of the Civil Rights Act of 1964, (42 U.S.C. § 2000d *et seq.*); 24 C.F.R. Part 1, "Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development - Effectuation of Title VI of the Civil Rights Act of 1964";

Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C. § 2000e, *et seq.*);

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

Executive Order 11063, as amended by Executive Order 12259, and 24 C.F.R. Part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063"; The failure or refusal of Subrecipient to comply with the requirements of Executive Order 11063 or 24 C.F.R. Part 107 shall be a proper basis for the imposition of sanctions specified in 24 C.F.R. 107.60;

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

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794.) and "Nondiscrimination Based

on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development", 24 C.F.R. Part 8. By signing this Contract, Subrecipient understands and agrees that the activities funded shall be performed in accordance with 24 C.F.R. Part 8; and the Architectural Barriers Act of 1968 (42 U.S.C. § 4151, *et seq.*), including the use of a telecommunications device for deaf persons (TDDs) or equally effective communication system.

LABOR STANDARDS

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

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

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

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

Federal Executive Order 11246, as amended.

EMPLOYMENT OPPORTUNITIES

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

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

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

Federal Executive Order 11246, as amended.

GRANT AND AUDIT STANDARDS

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

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

Uniform Grant and Contract Management Act (Texas Government Code Chapter 783) and the Uniform Grant Management Standards, issued by Governor's Office of Budget and Planning; and

Title 1 Texas Administrative Code § 5.167(c).

LEAD-BASED PAINT

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

HISTORIC PROPERTIES

The National Historic Preservation Act of 1966 as amended (16 U.S.C. § 470, *et seq.*), particularly sections 106 and 110 (16 U.S.C. §§ 470 and 470h-2), except as provided in §58.17 for Section 17 projects;

Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971

(36 FR 8921), 3 C.F.R., 1971-1975 Comp., p. 559, particularly section 2(c);

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

The Reservoir Salvage Act of 1960, as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. § 469, *et seq.*), particularly section 3 (16 U.S.C. § 469a-1).

ENVIRONMENTAL LAW AND AUTHORITIES

Environmental Review Procedures for Recipients assuming HUD Environmental Responsibilities (24 C.F.R. Part 58, as amended);

National Environmental Policy Act of 1969, as amended (42 U.S.C. §§ 4321-4347); and

Council for Environmental Quality Regulations for Implementing NEPA (40 C.F.R. Parts 1500-1508).

FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION

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

Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 C.F.R., 1977 Comp., p. 121 particularly Sections 2 and 5.

COASTAL ZONE MANAGEMENT

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

SOLE SOURCE AQUIFERS

The Safe Drinking Water Act of 1974 (42 U.S.C. §§ 201, 300(f), *et seq.*, and 21 U.S.C. § 349) as amended; particularly section 1424(e)(42 U.S.C. § 300h-3(e)); and

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

ENDANGERED SPECIES

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

WILD AND SCENIC RIVERS

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

AIR QUALITY

The Clean Air Act (42 U.S.C. § 7401, *et seq.*) as amended, particularly sections 176(c) and (d) (42 U.S.C. § 7506(c) and (d)).

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

FARMLAND PROTECTION

Farmland Protection Policy Act of 1981 (7 U.S.C. § 4201, *et seq.*) particularly sections 1540(b) and 1541 (7 U.S.C. §§ 4201(b) and 4202); and

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

HUD ENVIRONMENTAL STANDARDS

Applicable criteria and standards specified in HUD environmental regulations (24 C.F.R. Part 51)(other than the runway clear zone and clear zone notification requirement in 24 C.F.R. § 51.303(a)(3); and

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

ENVIRONMENTAL JUSTICE

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

SUSPENSION AND DEBARMENT

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

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

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

OTHER REQUIREMENTS

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

ACQUISITION / RELOCATION

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

FAITH-BASED ACTIVITIES

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

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SPECIAL CONDITIONS

If applicable to a Project or Activity, Subrecipient must be in compliance with the following Special Conditions and any other State, Federal, or local laws, rules, and regulations as may be applicable, throughout the term of the Contract, prior to the release of any grant funds for the Projects or Activities anticipated.

Subrecipient is deemed to have read and to understand the requirements of each of the following, if applicable to the Project or any Activity under this Contract:

A. REIMBURSEMENT, GENERALLY

As provided for in Public Law 115-123, the Contract funds may not be used for activities that are eligible to be reimbursed by, or for which funds are made available by, (a) the Federal Emergency Management Agency (FEMA); (b) the Army Corps of Engineers (Corps); (c) any other federal funding source; or (d) covered by insurance, and Subrecipient shall ensure compliance with all such requirements.

B. NATIONAL FLOOD INSURANCE PROGRAM COMPLIANCE

1. Subrecipient must provide documentation which indicates they have received approval from the Texas Water Development Board (TWDB), the National Flood Insurance Program (NFIP) State Coordinating Agency, that appropriate ordinances or orders necessary for Subrecipient to be eligible to participate in the NFIP have been adopted.
2. When Activities specified in a Performance Statement involve structures that are located within Special Flood Hazard Areas (SFHA), flood insurance may be required. If required, Subrecipient shall obtain such insurance and shall maintain documentation evidencing compliance with such requirements.
3. Subrecipient acknowledges and agrees that if any property that is the subject of an Activity under this Contract is located within a floodplain, the following terms and conditions shall apply:
 - a. Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001- 4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:
 - i. The community in which the area is situated is participating in the National Flood Insurance Program ("NFIP"), or less than one (1) year has passed since the FEMA notification regarding such hazards; and
 - ii. Where the community is participating in the NFIP, flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.
 - b. Where the community is participating in the NFIP and the recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, Subrecipient is responsible for ensuring that flood insurance under the NFIP is obtained and maintained.
 - c. Under Section 582 of the National Flood Insurance Reform Act of 1994, 42 U.S.C. 5154a, HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for flood damage to any personal, residential, or commercial property if:
 - i. The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and

- ii. The person failed to obtain and maintain flood insurance.
- d. Subrecipient understands and agrees that it has a responsibility to inform homeowners receiving disaster assistance that triggers the flood insurance purchase requirement of their statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance, and that the transferring owner may be liable if he or she fails to do so.

C. PROJECT MAPPING/DESIGN INFORMATION

For construction projects, Subrecipient shall require and maintain copies, in written and/or digital format, of final Project record drawing(s) and engineering schematics, as constructed.

D. WATER SYSTEM IMPROVEMENTS

1. Prior to the GLO's release of funds for the construction of any water system improvements, Subrecipient shall provide certification to the GLO that plans, specifications, and related documents for the specified water system improvements have been prepared by the engineer selected for such activities, or the engineer's duly authorized representative, and that the review of such plans, specifications, and related documents meet the applicable Texas Commission on Environmental Quality (TCEQ) review requirements described in Title 30 of the Texas Administrative Code.
2. Prior to construction, Subrecipient shall provide documentation to the GLO that an approved new or amended Certificate of Convenience and Necessity (CCN), or the equivalent permit or authority for the area to be served, has been issued by the TCEQ.
3. Prior to Subrecipient submission of the Project Completion Report for any water system improvements described in Attachment A, Subrecipient shall provide a letter from the TCEQ that the constructed well is approved for interim use and may be temporarily placed into service pursuant to 30 Texas Administrative Code, Chapter 290—Rules and Regulations for Public Water Systems.

E. SEWER SYSTEM IMPROVEMENTS

Prior to the construction of any sewer system improvements described, Subrecipient shall provide certification that the plans, specifications, and related documents for the specified sewer system improvements have been prepared by the engineer selected for such activities, or the engineer's duly authorized representative and properly submitted to the Texas Commission on Environmental Quality (TCEQ) for review and approval in accordance with the administrative requirements of 30 TAC §217.6.

Further, prior to the construction of any sewer lines or additional service connections described in Attachment A, Subrecipient shall provide notification to the GLO of the start of construction on any sewer treatment plant or other system-related improvements included in this Contract.

F. WASTEWATER TREATMENT CONSTRUCTION

Prior to incurring costs for any wastewater treatment construction in Attachment A, Subrecipient shall provide documentation of an approved permit or amendment(s) to an existing permit for such activities from the TCEQ's Water Quality Division.

In addition, Subrecipient shall provide documentation to the GLO that an approved new or amended Certificate of Convenience and Necessity (CCN), or equivalent permit or authority for the area to be served, has been issued by the TCEQ as required by 16 Texas Administrative Code Chapter 24, Subchapter H.

G. ON-SITE SEWAGE FACILITIES (OSSF) IMPROVEMENTS

1. Subrecipient shall provide documentation that final plans, specifications, and installation of its OSSF improvements have been reviewed and approved by the City or County Health Department through authority granted by the TCEQ.
2. Subrecipient shall mitigate all existing OSSF in accordance with 30 Texas Administrative Code Chapter 285, Subchapter D, §285.36(b).
3. Prior to the selection of program recipients for proposed OSSF, Subrecipient shall provide a copy of its proposed program guidelines to for GLO review. All proposed OSSF programs must meet or exceed guidelines set forth in 30 Texas Administrative Code Chapter 285, Subchapter D.

H. BUILDING CONSTRUCTION

Subrecipient shall provide documentation that the construction of a new building and facilities are in compliance with the Texas Accessibility Standards (TAS) adopted under the Architectural Barriers Act, Chapter 469, Texas Government Code, and the Texas Department of Licensing and Regulation (TDLR) Architectural Barriers Administrative Rules, 16 Texas Administrative Code, Chapter 68. If estimated construction costs exceed Fifty Thousand Dollars (\$50,000.00), Construction Documents must be submitted to the TDLR for an accessibility plan review.

I. BRIDGE CONSTRUCTION/REHABILITATION

Subrecipient shall use the minimum design requirements of the Texas Department of Transportation (TxDOT) for bridge construction/rehabilitation. Final plans and specifications must be submitted to TxDOT for review and approval prior to the start of construction in accordance with Transportation Code Section 201.084, and documentation of such approval must be provided to the GLO.

J. DISASTER SHELTERS

Subrecipient shall ensure that the primary purpose of the facility, as described in Attachment A, is to serve as a disaster shelter, and shall ensure the facility is operated at all times in a manner that ensures that the priority use is to serve as a disaster shelter regardless of any other scheduled uses or commitments that existed at the time of the disaster or emergency situation. In addition, Subrecipient shall prepare or be incorporated into an approved emergency management plan, as prescribed by the Texas Division of Emergency Management, identifying the shelter as a facility that provides short-term lodging for evacuees during and immediately after an emergency situation. Subrecipient shall submit a copy of Subrecipient's Emergency Management Plan Annex for Shelter and Mass Care to the GLO.

K. DEBRIS REMOVAL

Subrecipient shall ensure that any debris to be removed consists primarily of vegetation, construction and demolition materials from damaged or destroyed structures, and personal property. Only debris identified as the responsibility of the local jurisdiction will be eligible for the reimbursement of cost of removal.

Prior to beginning debris collection operations, Subrecipient shall address all pertinent environmental concerns, adhere to all applicable regulations, and obtain all required permits. Further, Subrecipient shall adhere to the methods described herein for the collection and storage of debris prior to proper disposal.

While construction and demolition debris may be collected and disposed of at an appropriately rated landfill, woody and/or vegetative debris must be stored prior to disposal by use of temporary debris storage and reduction sites (TDSR). Subrecipient will prepare and operate the TDSR sites, or local jurisdictions choosing to conduct their own debris operations may review Chapter 7 of the FEMA

Debris Management Guide regarding the use of TDSR sites. This document may be obtained at <https://www.fema.gov/pdf/government/grant/pa/demagde.pdf>.

In order to maintain the life expectancy of landfills, Subrecipients disposing of woody and/or vegetative debris must choose burning, chipping, or grinding as the method of disposal. Any project disposing of woody and/or vegetative debris must be approved in writing by the GLO.

L. USE OF BONDS

Subrecipient must notify the GLO of its issuance and sale of bonds for completion of the project funded under this Contract.

M. PROGRAM GUIDELINES

Prior to the selection of program beneficiaries, Subrecipient shall provide to the GLO, for GLO review and approval, a copy of its proposed guidelines for the program. The guidelines must meet or exceed to requirements in the Federal Registers. The guidelines must include provisions for compliance with the Federal Fire Prevention and Control Act of 1974 (which requires that any housing unit rehabilitated with grant funds be protected by a hard-wired or battery-operated smoke detector) and provisions for compliance with 24 CFR 35 (HUD lead-based paint regulation).

N. AFFORDABILITY PERIODS FOR SINGLE-FAMILY HOUSING REHABILITATION, RECONSTRUCTION, OR NEW CONSTRUCTION ASSISTANCE

For single-family non-rental housing assistance provided by Subrecipient, Subrecipient shall implement a minimum* three-year affordability period during which the homeowner must occupy the home as a principal place of residence, guaranteed by an unsecured forgivable promissory note.

O. UNSECURED FORGIVABLE PROMISSORY NOTE (“NOTE”)

Housing rehabilitation or reconstruction assistance provided by Subrecipient shall be in the form of a three-year unsecured forgivable promissory note at an interest rate of zero-percent (0%). Provided that all terms and conditions contained in the Note continue to be fulfilled, a Note will be forgiven according to the following terms, as applicable, until the applicant fulfills their note requirement (the requirements are defined in the promissory note document): at a rate of 33 percent per year for the first two years, and 34 percent after the third year.

1. If the homeowner occupies the home for the full three-year term, the Note expires and no repayment is required, nor will any conditions be imposed relative to the disposition of the property. If any of the terms and conditions under which the assistance was provided are breached or if the property is sold, leased, transferred or vacated by the homeowner for any consecutive thirty (30) day period during the Note term, the repayment provisions of the Note shall be enforced.
2. If, during the Note term, the homeowner vacates the unit for any consecutive thirty (30) day period, the locality may forgive, as evidenced by the program director, city council, or commissioner court action, the remaining loan balance. Prior to forgiveness of all or any portion of the assistance provided, the request for forgiveness must be approved by the local governing body and be based on documented and justifiable conditions or circumstances that would result in an unnecessary hardship to the homeowner and, in the case of a limited clientele project, the determination that the national objective of benefiting low to moderate-income persons was met.
3. For a limited clientele project, the national objective will be considered met only when the program director, city council, or county commissioners court determines that a low- to

* Subrecipient may establish a longer affordability period at its own discretion.

moderate-income person has occupied the rehabilitated or reconstructed home for a time sufficient to meet the national objective. If the national objective was not achieved, Subrecipient is liable for repayment of an amount equal to the difference in the appraised value of the home prior to reconstruction and the sales price when the home is sold during the term of the forgivable Note.

4. If property assisted under a limited clientele project is sold or transferred to a person other than an eligible LMI person, the remaining pro-rated balance of the Note must be repaid by Subrecipient from the sales proceeds. Notwithstanding the preceding, Subrecipient shall be held liable for any balance remaining over and above the sales proceeds. In all instances, upon completion of the Note or repayment of the assistance (in full or in part), Subrecipient shall prepare and record a release of lien document in the land records of the applicable county.
5. Monitoring of the Note is required both during and after the grant is closed. Subrecipient must utilize non-CDBG funds to fulfill the monitoring obligations for its impacted recovered community.
6. Subrecipient will maintain a list of homeowners that do not maintain flood insurance as documented in their promissory note. These applicants will not be allowed to receive future assistance as outlined in Section B of this document.

P. RENTAL HOUSING REHABILITATION, RECONSTRUCTION, OR NEW CONSTRUCTION ASSISTANCE

Rental housing rehabilitation, reconstruction, or new construction assistance will provided be provided in the form of a forgivable loan or grant at zero interest dependent on the applicable Federal Register notice, Action Plan, or Housing Guidelines. Provided all terms and conditions under which the assistance was provided continue to be fulfilled, the note will be forgiven on a pro-rated basis until the applicant fulfills their note requirement (the requirements are defined in the promissory note document).

The purpose of the program is to facilitate the rehabilitation, reconstruction, and/or new construction of affordable rental housing needs within the service area of a disaster event in order to increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters. A minimum of 51% of the multi-family units must be restricted during the affordability period of twenty (20) years for low to moderate income (LMI) persons. The rents, at a minimum, must comply with High HOME Investment Partnership (HOME) Rents and other existing Land Use Restriction Agreement (LURA) restrictions if applicable. HOME rent limits are defined by HUD and must equal the lesser of fair market rents or 30% of the adjusted income for people earning 65% of the AMFI.

Q. COASTAL MANAGEMENT

Subrecipient acknowledges and agrees that any Project that may impact a Coastal Natural Resource Area must be consistent with the goals and policies of the Texas Coastal Management Program as described in 31 Texas Administrative Code, Part 16, Chapter 501.

GLO Community Development and Revitalization
Monthly Activity Status Report

Subrecipient must provide monthly Activity status reporting for all sites identified in the Performance Statement (**Attachment A**) and relevant to the milestones therein. The Monthly Activity Status Report is due the fifth day of the month following the reporting period for the duration of the Contract. Submit the report using the Texas Integrated Grant Reporting system upload for Monthly Activity Status Reporting.

Subrecipient:

Contract Number:

Preparer Name:

Contact Information:

Reporting Period (Month/ Year):

Project Title:

Project Milestone Phase	Att. A Budget Gates/Milestones		TIGR Milestone (Pending or Complete)	On Schedule? (If no, describe improvement plan below.)
	Budget Category	Budget Allowance		
Start-Up Documentation	PD-GA Funds	0-15%		
Engineering NTP	Eng Funds	0-30%		
Environmental NTP	PD-GA Funds	15.01-30%		
	PD-Env Funds	0-30%		
Engineering Design	Eng Funds	30.01-60%		
Completion of Special Env Svcs	PD-Special Env Funds	100%		
Authority to Use Grant Funds	PD-GA Funds	30.01-50%		
	PD-Env Funds	30.01-100%		
Acquisition (if applicable)	Acq Funds	100%		
Bid Advertisement	PD-GA Funds	50.01-60%		
	Eng Funds	60.01-70%		
Contract Award and Construction	PD-GA Funds	60.01-85%		
	Eng Funds	70.01-85%		
	Construction Funds	0-95%		
Construction Activity Completion	PD-GA Funds	85.01-95%		
	Eng Funds	85.01-100%		
	Construction Funds	95.01-100%		
Planning NTP	Planning Funds	0-95%		
Planning Completion	Planning Funds	95.01-100%		
Contract Closeout	PD-GA Funds	95.01-100%		

Project Status Concerns (provide notes or information relevant to the overall contract.):

Budget Status:	Total Budget	Total Expended	Balance	% Expended (Total Expended/Total Budget)
PD-GA Funds				
PD-Env Funds				
PD-Special Env Funds				
Eng Funds				
Acq Funds				
Construction Funds				
Planning Funds				
Totals:				

GLO Information Security Appendix (CDBG)

1. Definitions

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

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

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

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

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

2. Security and Privacy Compliance

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

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

3. Data Ownership

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

4. Data Mining

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

5. Breach of Security

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

6. Right to Audit

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

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

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

P.L. 113-2 Contract Reporting Template

Grantees are to use this template to summarize all procured contracts, including those procured by the grantee, recipients, or subrecipients. For the purposes of this requirement, recipients and subrecipients are defined as any entity receiving funds directly from the grantee. Definitions of each field can be found below. Grantees are to update and upload this template to their website and to DRGR using the Lead Agency's Administration activity each quarter as part of their QPR submissions by selecting the "add additional documents" link in page 1 of the edit activity screen. Please note the specific activity title and number where the template has been uploaded within the QPR's Overall Progress narrative. Please contact your CDP representative with any questions about the requirements pertaining to this template or submit a question to <https://www.onecpd.info/get-assistance/my-question/> for DRGR technical assistance.

Data Fields:

Grantee	Enter grantee title as displayed in DRGR system.
Grant Number	Enter grant number as displayed in DRGR system.
Date Updated	Enter date template last updated.
A. Contractor Name	Enter name of Contracted Party
B. DUNS Number	Enter Data Universal Numbering System number of the Contractor. <u>Note:</u> Entering the DUNS into this template does not fulfill the requirement for grantees to enter DUNS into the DRGR Action Plan at the activity level. Refer to the Notice published July 11, 2014 for more information on this separate requirement.
C. Procured by	Enter name of entity that procured Contract - HUD grantee (state or local government), partner agency, a subrecipient of a state or local government, or a recipient of a state government.
D. Contract Execution Date	Enter date the Contract was executed.
E. Contract End Date	Enter date the Contract will expire.
F. Total Contract Amount	Enter total amount of executed Contract.
G. Amount of CDBG-DR Funds	Enter amount of CDBG-DR funds from this grant used to fund the Contract.
H. Brief Description of Contract	Enter a brief, one sentence description of the purpose of the Contract.

To insert additional ROWS, go to HOME menu, and select INSERT from the top left.

P.L. 113-2 Contract Reporting Template

Grantee:
Grant Number:
Date Updated:

A. Contractor Name	B. DUNS Number	C. Procured By	D. Contract Execution Date	E. Contract End Date	F. Total Contract Amount	G. Amount of CDBG-DR Funds	H. Brief Description of Contract
Example: South Texas Landscaping, INC	XXX-XXX	State of Texas	6/15/2013	6/15/2014	\$3,500,000	\$3,000,000	Long term recovery from wildfires of 2011 - Drainage Projects

*See Instructions tab for additional guidance on template elements.



Regular City Council
AGENDA ITEM 11.

Agenda Item: Discuss and Possibly Act Upon a Vocational Work Contract Between the City of Brenham and Texas Health and Human Services Commission on Behalf of the Brenham State Supported Living Center for Document Shredding and Litter Management Services and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-June 16, 2022

Department: Public Works

Staff Contact: Dane Rau

SUMMARY STATEMENT:

For the last 20+ years, the City of Brenham has contracted with the Brenham State Supported Living Center to help manage litter in City Parks. For the past nine years, they have performed general document destruction and shredding for the City of Brenham. This Contract is the renewal of those services in which clients assist the City of Brenham on a daily basis to manage litter throughout the City's seven parks and numerous facilities and perform general document destruction and shredding.

For the litter management, currently the State Supported Living Center conducts this service daily for eight hours utilizing state supported living center clients, one supervisor, and one monitor. A litter sweep of each park is conducted and all trash barrels are bagged, emptied, and new bags are placed in the barrel. The rate in which they charge the City of Brenham would stay the same at \$2,200 per month. With the current rate, it comes out to an annual cost of \$26,400.00. This partnership has worked out great in the past and the service that is conducted has helped tremendously in managing litter, which in return, offers a clean enjoyable visit for our many park visitors.

For the general document destruction and shredding, currently the State Supported Living Center conducts this service as requested by City staff. State Supported Living Center staff picks up the documents from city facilities, takes them to the Center to weigh all documents, store them at a secure locked location at the center, shreds the documents at the center, and lastly bales the shredded materials into an industrial sized bale prior to shredded materials leaving the center. This service has been very beneficial to city staff and the City of Brenham and has worked out very well in the past years.

The contract is effective on the signature date of the latter of the Parties to sign this contract and terminates on August 31, 2026, unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. HHSC, in its sole discretion and subject to mutually agreeable terms and conditions, may extend this Contract for any period or periods of time no greater than a cumulative total of five years, which five-year period includes the original contract term.

ATTACHMENTS:

(1) Vocational Work Contract

RECOMMENDED ACTION:

Approve a Vocational Work Contract between the City of Brenham and Texas Health and Human Services Commission on behalf of the Brenham State Supported Living Center for document shredding and litter management services and authorize the Mayor to execute any necessary documentation.

**TEXAS HEALTH AND HUMAN SERVICES
VOCATIONAL WORK CONTRACT
BETWEEN THE HEALTH AND HUMAN SERVICES COMMISSION
AND
CITY OF BRENHAM
HHSC Contract Number: <Insert Contract Number>**

I. PURPOSE

The **HEALTH AND HUMAN SERVICES COMMISSION** ("HHSC"), an administrative agency within the executive branch of the state of Texas, for and on behalf of the **BRENHAM STATE SUPPORTED LIVING CENTER** ("Center"), and **City of Brenham** ("Recipient"), having its principal office at 200 West Vulcan Street, Brenham, TX 77833, each a "Party" and collectively the "Parties," enter into the following agreement, which provides vocational work opportunities for Center residents (the "Contract").

II. LEGAL AUTHORITY

This Contract is authorized by Texas Government Code Chapter 531 and Texas Health and Safety Code Chapter 533A.

III. DURATION

The Contract is effective on the signature date of the latter of the Parties to sign this Contract and terminates on **August 31, 2026**, unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract. HHSC, in its sole discretion and subject to mutually agreeable terms and conditions, may extend this Contract for any period or periods of time no greater than a cumulative total of five years, which five-year period includes the original contract term.

IV. STATEMENT OF SERVICES TO BE PERFORMED BY THE CENTER

- 4.1. SSLC residents who participate in the Center's vocational program (referred to in this Contract as "Participants") will perform general document destruction and shredding (the "Services") for the Recipient as follows:
 - 4.1.1. Center staff will pick up documents that have been collected by Recipient from Recipient's place of business listed in **Section I, Purpose**, at mutually agreed upon dates and times.
 - 4.1.2. All documents will be weighed at the Center to get an accurate weight of pounds received for billing purposes.
 - 4.1.3. The Center will store Recipient's documents in a secured designated area inside the Center, or in a locked secured metal container on the premises immediately outside of the Center.
 - 4.1.4. Documents to be shredded will be deposited in a shredding machine, by the Participants, that will shred as either "strip cut" or "crosscut".
 - 4.1.5. The Participants will collect the shredded materials in plastic bags. These plastic bags containing the shredded materials will remain in a locked and secured warehouse at the Center.
 - 4.1.6. The Participants will process and bale the shredded materials into an industrial sized bale prior to the shredded materials leaving the Center.
 - 4.1.7. Center staff will transport the bale to a centralized pick-up point in accordance

with Section 9.3 of this Contract.

4.2. Additionally, SSLC residents who participate in the Center's vocational program (referred to in this Contract as "Participants") will perform litter management pick up services at City of Brenham owned and operated public parks.

4.2.1. The litter management service will include walking through the parks, picking up and disposing of litter, and emptying and inserting new bags into the trash receptacles. Center staff will notify the City of Brenham's designee of defective equipment or trash cans that pose a hazard. These will be replaced by the City of Brenham upon notification from the Center. Bags of trash removed from the receptacles will be placed in identified dumpsters. The litter management locations are as follows:

Firemen's Park and Baseball Field (901 North Park Street Brenham, TX 77833);
Henderson Park (804 Old North Market Brenham, TX 77833);
Hattie Mae Flowers Park (700 Martin Luther King Jr Parkway Brenham, TX 77833);
Jackson Street Park (1300 South Jackson Brenham, TX 77833);
Jerry Wilson Park (900 East Alamo Brenham, TX 77833);
Linda Anderson Park and Baseball Fields (1300 Old Independence Road Brenham, TX 77833);
Recreation Facility 36 North Volleyball Courts at Lounge Road (2425 North Park Street Brenham, TX 77833);
Fink and Korthauer Fields (804 Old Market Brenham, TX 77833);
Holt Park Baseball Fields, Soccer Fields, and all Sports Building (2425 North Park Street Brenham, TX 77833);
Rankin Soccer Field (2425 North Park Street Brenham, TX 77833);
Library Facility Area (901 North Park Street Brenham, TX 77833);
Dietrich Memorial Amphitheatre (2425 North Park Street Brenham, TX 77833);
and
Skate park (901 North Park Street Brenham, TX 77833).

4.3. The Center will, in its sole discretion, determine the number of Participants who will perform the Services. Litter management services will be provided daily, Monday through Friday, as the weather permits and determined by Center staff, between the hours of 7:00 a.m. and 5:00 p.m. Services will not be provided on federal, state, or local holidays.

V. PAYMENT AND REIMBURSEMENT RATES

5.1 In consideration of the receipt of the above-referenced Services, Recipient shall reimburse Center as follows:

- 5.1.1 Recipient agrees to pay the flat rate of \$0.18 per pound (weighed at time of arrival at Center).
- 5.1.2 Recipient agrees to pay the flat rate of \$9.00 for each pick up of documents to be destroyed.
- 5.1.3 Recipient agrees to pay the flat rate of \$2,200.00 per month for Litter Management Services as noted in Section 4.2.1.

5.2 The recipient hereby agrees to provide, at no cost to the Center, all materials that are

required to perform the litter management services. These materials are to be requested by the Center staff when needed from the City of Brenham's designee. All supplies shall be purchased by the City of Brenham and distributed when needed from the City of Brenham at 301 Jeffries Street Brenham, Texas 77833.

5.3 The Center will provide manpower, tools for picking up litter (pickers/grabbers), and transportation to perform the litter management services.

5.4 If expenses incurred by the Center in the performance of the Contract increase, Center will notify Recipient of the proposed rate increase. If the Recipient agrees to the rate change, this Contract will be amended to reflect the revised rate. If an agreement is not reached to increase the rate, HHSC, in its sole discretion, may continue to provide services at the existing rate or terminate the Contract.

VI. PAYMENT FOR SERVICES

Center will send invoices to Recipient. Recipient shall remit payment to Center promptly upon receipt of each invoice at the address below:

Brenham State Supported Living Center
Attn: Cashier's Office
4001 Hwy 36 South
Brenham, TX 77833

Payment by Recipient shall be considered late if not received by the Center within 30 days of invoice issue date.

In the alternative, if Recipient issues purchase orders to Center, Center will not be required to invoice Recipient. Rather, Recipient shall send payment to the Center within 30 days of Recipient's receipt of ordered goods or services.

VII. CONTRACT REPRESENTATIVES

The following will act as the Representative authorized to administer activities under this Contract on behalf of its respective Party:

Recipient

Dane Rau
PO Box 1059
Brenham, TX 77834-1059
979-337-7407

HHSC / Center

Leslie Wright, CTCM
4001 Hwy 36 South
Brenham, TX 77833
979-277-1314
leslie.wright@hhs.texas.gov

Either Party may change its designated contract representative by written notice to the other Party.

VIII. NOTICES.

Any legal notice required under this Contract shall be deemed delivered when deposited by HHSC either in the United States mail, postage paid, certified, return receipt required; or with a common carrier, overnight, signature required, to the appropriate address below:

If sent to Recipient:

City of Brenham
Attn: City Attorney
PO Box 1059

If sent to HHSC:

Health and Human Services Commission
Attn: Office of the Chief Counsel
4601 W. Guadalupe St; MC 8067

Legal notice given by Recipient shall be deemed effective when received by HHSC. Either Party may change its address for legal notice by written notice to the other Party.

IX. GENERAL TERMS AND CONDITIONS

9.1 Inability to Provide Services. If, for any reason, Center is unable to provide Participants to perform the Services, Center will attempt to notify the Recipient in advance, but otherwise shall have no liability or responsibility to the Recipient.

9.2 Recipient's Duty to Maintain Premises and to Provide Materials Needed to Perform the Services. Recipient must maintain the premises and business operations where Participants are to perform services under the Contract in a manner that ensures Participants' safety and health on and near the site(s), including, but not limited to, access to and from the site(s). Recipient must repair and correct known dangers and reasonably inspect, discover and correct unknown hazards in those areas on and near the site(s) where Participants have access. Further, to ensure the safety and health of Participants, Recipient must follow all applicable requirements and regulations regarding use, storage, maintenance, and disposal of all property, substances, materials, and equipment provided by Recipient for Participants to perform services under this Contract.

9.3 Document Destruction. If the Services in any manner incorporate destruction of confidential documents, Center will transport the documents to a centralized pick-up point for an AAA-certified member of the National Association for Information Destruction ("NAID") that shall be compliant with all industry standards for information destruction services. Recipient bears sole responsibility for advising Center if documents to be destroyed are confidential or contain confidential information. Recipient must provide advance written notice of the confidential nature of any documents to be destroyed. Center, in its sole discretion, shall determine the specific method or manner by which Recipient will be required to identify confidential documents to be considered "properly identified." Recipient shall bear the costs of notice, identification, and destruction and will be invoiced by Center.

9.4 Health Insurance Portability and Accountability Act (HIPPA). Each Party shall use reasonable care and no less than the same degree of care that it uses to protect its own confidential, proprietary and trade secret information to prevent any of Recipient's confidential information from being used or disclosed in an unauthorized manner.

9.4.1 Center agrees to use appropriate safeguards to prevent the use or disclosure of properly identified confidential information obtained under this Contract. Center agrees to report to Recipient any unauthorized uses or disclosures of the information it obtains under this Contract. If an unauthorized use or disclosure qualifies as a breach as defined in the HIPAA regulations for which notification is required under 45 C.F.R § 164.404, Recipient shall conduct notification as required at its sole expense.

9.4.2 If this Contract involves HHSC's receiving protected health information from Recipient (which requires proper identification by Recipient as set forth above), HHSC shall be a "business associate" of Recipient as that phrase is defined in the rules adopted under HIPAA and the Health Information Technology for Economic and Clinical Health Act ("HITECH Act").

9.4.3 This subsection applies solely to HIPAA privacy and security regulations applicable to HHSC and does not establish an employment relationship.

9.5 Amendments. This Contract may only be amended by written agreement between

HHSC and Recipient.

9.6 Termination for Convenience. HHSC may terminate the Contract, in whole or in part, at any time when, in its sole discretion, HHSC determines that termination is in the best interest of the State of Texas. The termination will be effective on the date specified in HHSC's notice of termination to the Recipient.

The Recipient may terminate the Contract by providing written notice to HHSC at least 30 days in advance of the termination date.

9.7 Termination for Cause. Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, HHSC may terminate the Contract, in whole or in part, upon either of the following conditions:

9.7.1 Material Breach

HHSC will have the right to terminate the Contract, in whole or in part, if HHSC determines, in its sole discretion, that Recipient has materially breached the Contract or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of Recipient's duties under the Contract. Recipient's misrepresentation in any aspect of Recipient's Solicitation Response, if any, or Recipient's addition to the System for Award Management (SAM) will also constitute a material breach of the Contract.

9.7.2 Failure to Maintain Financial Viability

HHSC, in its sole discretion, may terminate the Contract based upon good faith belief that Recipient no longer has the financial viability required to fully perform its responsibilities under the Contract.

9.8 No Waiver of Sovereign Immunity. Nothing in the Contract shall be construed as a waiver of HHSC's or the State's sovereign immunity. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to HHSC or the State of Texas. The failure to enforce, or any delay in the enforcement of, any privileges, rights, defenses, remedies, or immunities available to HHSC or the State of Texas under the 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. HHSC does not waive any privileges, rights, defenses, or immunities available to HHSC by entering into the Contract or by its conduct prior to or subsequent to entering into the Contract.

9.9 Governing Law and Venue. This 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 HHSC.

9.10 Dispute Resolution. To the extent that Chapter 2260 of the *Texas Government Code* is applicable to this Contract:

9.10.1 the dispute resolution process provided for in Chapter 2260 must be used to attempt to resolve any dispute arising under the Contract. If the Recipient's claim for breach of contract cannot be resolved informally with HHSC, the claim shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, the Recipient shall submit written notice, as required by Chapter 2260, to the individual identified in the Contract for receipt of notices. Any informal resolution efforts shall in no way modify the requirements or toll

the timing of the formal written notice of a claim for breach of contract required under §2260.051. Compliance by the Recipient with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.

9.10.2 The contested case process provided in Chapter 2260 is the Recipient's sole and exclusive process for seeking a remedy for an alleged breach of contract by HHSC if the Parties are unable to resolve their disputes as described above.

9.10.3 Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by HHSC, the Recipient shall continue performance and shall not be excused from performance during the period of any breach of contract claim or while the dispute is pending. However, the Recipient may suspend performance during the pendency of such claim or dispute if the Recipient has complied with all provisions of Section 2251.051, Texas Government Code, and such suspension of performance is expressly applicable and authorized under that law.

9.11 Force Majeure. Neither Recipient nor HHSC shall be liable to the other for any delay in, or failure of performance of, any requirement included in the Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.

9.12 Excess Obligations Prohibited. This Contract is subject to termination or cancellation, either in whole or in part, based on the availability of state funds. HHSC shall have no liability to Recipient for such termination, including for any costs or expenses incurred by Recipient.

9.13 No Criminal Convictions. Recipient represents that neither Recipient nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representatives of such subcontractors, have been convicted of a criminal offense or that if such a conviction has occurred Recipient has fully advised HHSC in writing of the facts and circumstances surrounding the conviction(s).

9.14 Unfair Business Practices. Recipient represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Recipient has not been found to be liable for such practices in such proceedings. Recipient certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

9.15 Former Agency Employees. Recipient represents and warrants, during the twelve (12) month period immediately prior to the date of the execution of this Contract, none of its employees including, but not limited to those who will provide services under the Contract, was an employee of an HHS Agency. Pursuant to Section 2252.901, Texas Government Code (relating to prohibitions regarding contracts with and involving former and retired state agency employees), Recipient will not allow any former employee of HHSC to perform services under

this Contract during the twelve (12) month period immediately following the employee's last date of employment at HHSC.

9.16 Assignment

9.16.1 Recipient shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from HHSC. Any attempted assignment in violation of this provision is void and without effect.

9.16.2 Recipient understands and agrees HHSC may in one or more transactions assign, pledge, or transfer the Contract. This assignment will only be made to another State agency or a non-state agency that is contracted to perform agency support. Upon receipt of HHSC's notice of assignment, pledge, or transfer, Recipient shall cooperate with HHSC in giving effect to such assignment, pledge, or transfer, at no cost to HHSC or to the recipient entity.

9.17 Indemnification

9.17.1 RECIPIENT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, 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 RECIPIENT 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 THE RECIPIENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND RECIPIENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. RECIPIENT AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

9.17.2 THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE RECIPIENT TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OF OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.

9.17.3 For the avoidance of doubt, HHSC shall not indemnify Recipient or any other entity under the Contract.

9.18 Public Information Act. Recipient understands that HHSC will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Recipient is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information

Act, available in a format that is accessible by the public at no additional charge to the State.

9.19 Contracting Information Requirements. Recipient represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Recipient agrees that the Contract can be terminated if the Recipient knowingly or intentionally fails to comply with a requirement of that subchapter.

9.20 State Auditor's Right to Audit. 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.

9.21 Release from Liability. Recipient generally releases from liability and waives all claims against any party providing information about the Recipient at the request of HHSC.

9.22 Dealings with Public Servants. Recipient has not given, has not offered to give, and does not intend 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 this Contract or any related Solicitation, or related Solicitation Response.

9.23 Financial Participation Prohibited. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Recipient certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

9.24 E-Verify Program. Recipient certifies that for contracts for services, Recipient shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of the Contract to determine the eligibility of: i. all persons employed by Recipient to perform duties within Texas; and ii. all persons, including subcontractors, assigned by the Recipient to perform work pursuant to the Contract within the United States of America.

9.25 Prior Disaster Relief Contract Violation. Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Recipient certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

9.26 Child Support Obligation. Under Section 231.006(d) of the Texas Family Code regarding child support, Recipient certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate.

9.27 Suspension and Debarment. Recipient certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public

Accounts and the System for Award Management (SAM) maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Recipient's subcontracts, if any, if payment in whole or in part is from federal funds.

9.28 Excluded Parties. Recipient 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.

9.29 Foreign Terrorists Organizations. Recipient 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.

9.30 Executive Head of a State Agency. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Recipient certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

9.31 Human Trafficking Prohibition. Under Section 2155.0061 of the Texas Government Code, Recipient certifies that the individual or business entity named in this Contract is not ineligible to receive this contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

9.32 Franchise Tax Status. Recipient represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.

9.33 Debts and Delinquencies. Recipient agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

9.34 Lobbying Prohibition. Recipient represents and warrants that payments to Recipient and Recipient's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

9.35 Buy Texas. Recipient agrees to 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.

9.36 Disaster Recovery Plan. Recipient agrees that upon request of HHSC, Recipient shall provide copies of its most recent business continuity and disaster recovery plans.

9.37 Cybersecurity Training. A. Recipient represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program. B. Recipient represents and warrants that if Recipient or subcontractors, officers, or employees of Recipient have access to any state computer system or database, the Recipient, subcontractors, officers, and employees of Recipient shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.

9.38 Restricted Employment for Certain State Personnel. Recipient acknowledges that,

pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Recipient may not accept employment from Recipient before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.

9.39 Disclosure of Prior State Employment. If this Contract is for consulting services under Chapter 2254 of the Texas Government Code, in accordance with Section 2254.033 of the Texas Government Code, Recipient certifies that it does not employ an individual who was employed by HHSC or another agency at any time during the two years preceding the submission of any related Solicitation Response related to this Contract or, in the alternative, Recipient has disclosed in any related Solicitation Response the following:

- i. the nature of the previous employment with HHSC or the other agency;
- ii. the date the employment was terminated; and
- iii. the annual rate of compensation at the time the employment was terminated.

9.40 No Conflicts of Interest

- A. Recipient represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to HHSC under this Contract or any related Solicitation and that Recipient's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety. Recipient further represents and warrants that it has no actual or potential conflicts of interest in entering into this Contract or otherwise contracting with HHSC.
- B. Recipient agrees that, if after execution of the Contract, Recipient discovers or is made aware of a conflict of interest, Recipient will immediately and fully disclose such interest in writing to HHSC. In addition, Recipient will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Recipient or by HHSC as a potential conflict. HHSC reserves the right to make a final determination regarding the existence of conflicts of interest, and Recipient agrees to abide by HHSC's decision.

9.41 Fraud, Waste, and Abuse. Recipient understands that HHS does not tolerate any type of fraud, waste, or abuse. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Pursuant to Texas Government Code, Section 321.022, if the administrative head of a department or entity that is subject to audit by the state auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the Texas State Auditor's Office (SAO). All employees or contractors who have reasonable cause to believe that fraud, waste, or abuse has occurred (including misconduct by any HHS employee, Grantee officer, agent, employee, or subcontractor that would constitute fraud, waste, or abuse) are required to immediately report the questioned activity to the Health and Human Services Commission's Office of Inspector General. Recipient agrees to comply with all applicable laws, rules, regulations, and System Agency policies regarding fraud, waste, and abuse including, but not limited to, HHS Circular C-027.

A report to the SAO must be made through one of the following avenues:

- SAO Toll Free Hotline: 1-800-TX-AUDIT
- SAO website: <http://sao.fraud.state.tx.us/>

All reports made to the OIG must be made through one of the following avenues:

- OIG Toll Free Hotline 1-800-436-6184
- OIG Website: ReportTexasFraud.com
- Internal Affairs Email: InternalAffairsReferral@hhsc.state.tx.us
- OIG Hotline Email: OIGFraudHotline@hhsc.state.tx.us.
- OIG Mailing Address: Office of Inspector General
Attn: Fraud Hotline
MC 1300
P.O. Box 85200
Austin, Texas 78708-5200

9.42 Antitrust. The undersigned affirms under penalty of perjury of the laws of the State of Texas that:

- A. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Recipient has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- B. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Recipient has violated any federal antitrust law; and
- C. neither I nor any representative of the Recipient has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Recipient or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Recipient.

9.43 Entities that Boycott Israel. Pursuant to Section 2271.002 of the Texas Government Code, Recipient certifies that either it:

- 9.43.1 Meets an exemption criterion under Section 2271.002; or
- 9.43.2 Does not boycott Israel and will not boycott Israel during the term of the contract resulting from this Solicitation. If Recipient refuses to make that certification, Recipient shall state here any facts that make it exempt from the boycott certification:

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

9.45 Entire Contract and Modification. This Contract constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any future document incorporated into the Contract will be harmonized with this Contract to the extent possible.

9.46 Abortion Funding Limitation. Recipient understands, acknowledges, and agrees that, pursuant to Article IX, Section 6.25 of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act: i. performs an abortion procedure that is not reimbursable under the state's Medicaid program; ii. is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program; or iii. is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program. The provision does not apply to a hospital licensed under Chapter 241, Health and Safety Code, or an office exempt under Section 245.004(2), Health and Safety Code. Recipient represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article IX, Section 6.25.

9.47 Funding Eligibility. Recipient understands, acknowledges, and agrees that, pursuant to Chapter 2272 of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Recipient certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 of the Texas Government Code. If Recipient refuses to make that certification, Recipient shall state here any facts that make it exempt from the certification: _____

9.48 False Representation. Recipient understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Recipient is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

9.49 False Statements. Recipient represents and warrants that all statements and information prepared and submitted by Recipient in this Contract and any related Solicitation Response are current, complete, true, and accurate. Recipient acknowledges any false statement or material misrepresentation made by Recipient during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Recipient understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Recipient is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

9.50 Signature Authority. Each Party represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract. Any services or work performed by Recipient before this Contract is effective or after it ceases to be effective are performed at the sole risk of Recipient.

SIGNATURE PAGE FOLLOWS

**SIGNATURE PAGE FOR
VOCATIONAL WORK CONTRACT**

**HEALTH AND HUMAN SERVICES
COMMISSION**

CITY OF BRENHAM

By: _____

Michael Gartner

Director, Brenham State Supported

Living Center

By: _____

Name: _____

Title: _____

Date of Execution: _____

Date of Execution: _____